

Ted Biddy - 11/07/08

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JOHN POLITZ AND HELEN
POLITZ

PLAINTIFFS

V. CIVIL ACTION NO. 1:08CV18-LTS-RHW

NATIONWIDE MUTUAL FIRE
INSURANCE COMPANY, U.S.
SMALL BUSINESS
ADMINISTRATION, AND JOHN
DOES 1 THROUGH 10

DEFENDANTS

VIDEO DEPOSITION OF TED BIDDY

Taken at the instance of the Defendants at Denham
Law Firm, 424 Washington Avenue, Ocean Springs,
Mississippi, on Friday, November 7, 2008,
beginning at 8:59 a.m.

APPEARANCES:

WENDY TYNES, ESQ.
Denham Law Firm
Post Office Drawer 580
Ocean Springs, Mississippi 39566-0580

COUNSEL FOR PLAINTIFFS

BROOKS COURT REPORTING
1-800-245-3376

Exhibit 1

a580418a-55ec-460c-950b-fdf77d5aebd7

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2 (Pages 2 to 5)

Page 2	Page 4
1 ROBERT GILMORE, ESQ. Kirkland & Ellis, LLP 655 Fifteenth Street, N.W. Washington, D.C. 20005	1 Hurricane Katrina Wind and 2 Storm Tide
3 COUNSEL FOR DEFENDANTS	3 162 Photograph of Greensburg, Kansas 156
4	4 48 MDA Damage Assessment Worksheet . 177
5	5 117 "Is it Wind or is it Water?" 182
6	6 160 The Mississippi Press Article ... 190
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9	9
10 VIDEOGRAPHER: Lynda Marshall	10
11 REPORTED BY: Kelly Powell, CSR	11
12 Brooks Court Reporting, Inc.	12
13 Post Office Box 2632	13
14 Jackson, Mississippi 39207	14
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1 INDEX	1 VIDEOGRAPHER: This is the video
2 Style and Appearances..... 1	2 deposition of Ted Bidby taken by the counsel for the
3 Index 3	3 defendant in the matter of Politz versus Nationwide
4 Certificate of Deponent 197	4 Insurance Company, in the United States District
5 Certificate of Court Reporter 198	5 Court, Case Number 21:18CV18-LTS-RHW, held in the
6 EXAMINATIONS	6 office of Denham Law Firm on Friday, November the
7 Examination By Mr. Gilmore 5	7 7th, 2008. It is now 8:59 a.m. Counsel may
8 EXHIBITS	8 introduce themselves.
9 42 Ted Bidby Report 8	9 MR. GILMORE: Robert Gilmore, Kirkland &
10 90 Plaintiff's Designation of Expert 8	10 Ellis, LLP, on behalf of defendant Nationwide Mutual
11 Witnesses	11 Fire Insurance Company.
12 155 Schedule of Professional Fees for 18	12 MS. TYNES: And I'm Wendy Tynes of the
13 Hurricane Katrina Cases	13 Denham Law Firm here on behalf of the plaintiff.
14 156 Curriculum Vitae 33	14 VIDEOGRAPHER: The court reporter will now
15 157 Listing of Forensic Engineering . 67	15 swear in the witness.
16 and Expert Witness Cases by	16 TED BIDDY,
17 Ted L. Bidby	17 having been first duly sworn, was examined and
18 159 Before the Public Service 69	18 testified as follows:
19 Commission of the State of	19 EXAMINATION BY MR. GILMORE:
20 Missouri, Report and Order	20 Q. Good morning, Mr. Bidby. Again, my name
21 146 5/19/08 Letter to Mr. Bidby from 75	21 is Rob Gilmore. I'm with Kirkland & Ellis. As you
22 Denham Law Firm	22 know, we represent Nationwide in the Katrina
23 147 Handwritten Notes 85	23 litigation, and in particular, this case brought by
24 37 Kevin Kennedy & Associates 149	24 Mr. and Mrs. Politz. Could you state your full name
25 Meteorological Analysis of	25 for the record, please, sir?

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<p>1 A. Full name is Ted, middle initial L., 2 Biddy. 3 Q. Your home address? 4 A. 7059 Blueberry Hill Drive, Tallahassee 5 32303. 6 Q. What's your current work address? 7 A. Same thing. I have my office in my home. 8 Q. When were you born? 9 A. January 6, 1938. 10 Q. I know you've been deposed many times 11 before so I'm going -- I'm going to cut to the 12 chase. You know my job is to ask questions you 13 under -- that you can understand. If you answer, 14 I'm going to assume that you understood my question. 15 Is that fair? 16 A. That's fair. 17 Q. Is there any reason as we sit here today 18 that you can't give full and complete and truthful 19 testimony? 20 A. None at all. 21 Q. And you were noticed for this deposition, 22 and we also sent a subpoena to you for documents 23 that you might have in connection with your work for 24 the -- Mr. and Mrs. Politz? 25 A. Yeah.</p>	<p>1 A. No. No, I don't have it. 2 Q. Okay. Well, counsel for Mr. and 3 Mrs. Politz, in the version they produced to us, 4 added page numbers which are very helpful, and I 5 mean no disrespect to you, but sometimes the 6 numbering in your report is a little hard to follow, 7 so I'd like during this deposition -- I think it 8 might save us both time if I hand you a copy of the 9 report as it was produced to us. You can obviously 10 keep the report that you have with you, but I'm 11 going to refer to the Bates numbers that are at the 12 bottom of that report. Here's a copy for you and 13 for you. 14 MS. TYNES: Thank you. 15 (Exhibit 42 marked for identification.) 16 Q. (By Mr. Gilmore) And if you could just 17 flip through that, again, just to confirm that that 18 is identical to the report that you brought with you 19 today. 20 A. Yes, it appears to be. I'm not going 21 through it page by page, but it appears to be an 22 identical copy of it. 23 Q. Mr. Biddy, I'm going to hand you what's 24 been premarked as Defense Exhibit 90. 25 (Exhibit 90 marked for identification.)</p>
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<p>1 Q. And I know you previously produced 2 documents to us. Other than those that you've 3 previously provided, have you brought with you today 4 any additional documents? 5 A. Just my report. I assume you've got a 6 copy of it. 7 Q. We do, and we'll take a look at that real 8 quickly just to make sure it is the one that was 9 produced by Mrs. Politz in this case. And just so 10 -- I understand that Mr. Politz has passed away. If 11 I refer to Mr. and Mrs. Politz, with that 12 understanding, that currently Mrs. Politz is the 13 current plaintiff. 14 A. That's what I understand, yes. 15 Q. Do you -- your report that you have there 16 in front of you, do you know if that has anything 17 different from the version that you've produced to 18 Mrs. Politz's counsel which they provided to 19 Nationwide? 20 A. No, it's identical. 21 Q. I'm sorry? 22 A. It's identical. 23 Q. Identical, okay. Does your version have 24 numbers at the bottom, Politz -- beginning with 25 Politz-302?</p>	<p>1 Q. (By Mr. Gilmore) And this is Plaintiff's 2 Designation of Expert Witnesses in this case. Have 3 you ever seen this document before? 4 A. Yes, I have. 5 Q. When did you see it? 6 A. Somewhere along the line, I was shown a 7 copy of it by the Denham Firm. 8 Q. On page 1 of Plaintiff's Designation of 9 Expert Witnesses, it designates you as someone 10 they're tendering as an expert witness in this case, 11 and it states, "Mr. Biddy is designated as an expert 12 witness in the field of forensic engineering and the 13 application of same to the facts of the instant 14 case. Mr. Biddy's opinion and the basis for same is 15 set forth in the report entitled 'Forensic 16 Engineering Study of Damages to Residence of John 17 and Helen Politz at 116 Winters Lane, Long Beach, 18 Mississippi 39560 from Hurricane Katrina' dated July 19 14th, 2008. A copy of Mr. Biddy's report is being 20 provided to defendant contemporaneously with this 21 designation." Did I read all that accurately? 22 A. Yes, you did. 23 Q. And is that statement consistent with your 24 understanding of the expert testimony you will be 25 asked to present in this case by the plaintiff?</p>

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<p>1 A. Yes.</p> <p>2 Q. Now, if you read the remaining portion of</p> <p>3 your designation, it goes over to the top of page 2</p> <p>4 of Defense Exhibit 90. Just take a minute. It does</p> <p>5 not reference presenting opinion or testimony on the</p> <p>6 reconstruction cost of the Politz residence; is that</p> <p>7 correct, the fact that it doesn't reference such</p> <p>8 testimony from you?</p> <p>9 A. It says supplemental opinions, and I may</p> <p>10 do that in the deposition or during testimony.</p> <p>11 That's part of my report that is referred to at the</p> <p>12 first page, so it's part and parcel of my -- my</p> <p>13 study.</p> <p>14 Q. So is it your understanding that you will</p> <p>15 be asked to present an opinion or testimony as to</p> <p>16 the reconstruction cost of the Politz residence?</p> <p>17 A. I will -- in my understanding, I will be</p> <p>18 asked about anything in my report and that was part</p> <p>19 of my report was the reconstruction cost.</p> <p>20 Q. So it's your view that your -- your</p> <p>21 testimony and opinions about the reconstruction cost</p> <p>22 of the Politz residence is part of your testimony in</p> <p>23 the field of forensic engineering and the</p> <p>24 application of same to the facts of the instant</p> <p>25 case?</p>	<p>1 questions about those reports, meteorology reports</p> <p>2 that I have come up. Many times they will, okay,</p> <p>3 how about giving us a copy of those? Well, you</p> <p>4 know, it's overkill to put all of that in here, I</p> <p>5 thought.</p> <p>6 Q. Well, I understand that you might think</p> <p>7 it's overkill and your report is long. I guess my</p> <p>8 question is these other meteorology reports that you</p> <p>9 are referencing, have you relied on any of those in</p> <p>10 reaching the opinions that you've expressed in your</p> <p>11 report?</p> <p>12 A. No. The Calaci report is attached as</p> <p>13 Exhibit I to my report. I relied on it. The others</p> <p>14 are confirming it, and sometimes I will discuss</p> <p>15 those and any subject you want to ask me about.</p> <p>16 Q. But it's your view that the other reports</p> <p>17 or meteorological information that you don't have in</p> <p>18 your report don't add anything to your opinions in</p> <p>19 your report; is that correct?</p> <p>20 A. That's correct, just be cumulative to</p> <p>21 Mr. Calaci's report.</p> <p>22 Q. So the meteorological data that you rely</p> <p>23 on in your report is that that is actually attached</p> <p>24 in your report?</p> <p>25 A. And include everything I discuss in</p>
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<p>1 A. Yes, it is.</p> <p>2 Q. Have you discussed specifically with the</p> <p>3 Politz's attorneys whether you're going to be giving</p> <p>4 reconstruction cost opinions or testimony in this</p> <p>5 case?</p> <p>6 A. I have not. On many other occasions, I</p> <p>7 have, and I have always done so.</p> <p>8 Q. Okay. And now you mentioned -- in this</p> <p>9 designation, it also references the fact that you</p> <p>10 may also express supplemental opinions in any</p> <p>11 deposition or during his testimony and/or during the</p> <p>12 trial of this cause of action. That's on the top of</p> <p>13 page 2. As we sit here today, do you know what</p> <p>14 supplemental opinions you might be asked other than</p> <p>15 those that are in your report?</p> <p>16 A. No, but frequently it comes up as to what</p> <p>17 other evidence do you have to support this, that and</p> <p>18 the other such as the weather information, for</p> <p>19 instance, meteorological data, and I discuss the</p> <p>20 report that was made at the site, and I discuss a</p> <p>21 few others that confirm it, but sometimes I'm asked</p> <p>22 for -- well, what about others or what about this</p> <p>23 agency or that agency or so on. And I have a --</p> <p>24 just a multitude of weather information all along</p> <p>25 the coast and a lot at Long Beach, and sometimes</p>	<p>1 Section 1 and 2 in the report, which is the history</p> <p>2 and the sequence of the storm and that is included</p> <p>3 in the appendices of D, E, F and I. I guess it</p> <p>4 has -- has all of the meteorological data in it.</p> <p>5 Q. Mr. Biddy, I know that you've given a lot</p> <p>6 of depositions and some of the questions I'm going</p> <p>7 to ask you, you've probably heard before. You might</p> <p>8 anticipate the question and think you know the</p> <p>9 answer. Just so the court reporter can have an easy</p> <p>10 time transcribing everything, and I know you know</p> <p>11 this, but if -- if you do your best not to -- to</p> <p>12 wait until I finish answering [sic] my question, I</p> <p>13 will do my best not to interrupt or move to the next</p> <p>14 question before you finish your answer. Is that</p> <p>15 fair?</p> <p>16 A. That's fair.</p> <p>17 Q. Mr. Biddy, how did you prepare for your</p> <p>18 deposition today?</p> <p>19 A. I simply re-read the file, and when I</p> <p>20 arrived here yesterday, I drove by the site. No</p> <p>21 particular reason, just something I always do.</p> <p>22 Q. When you drove by the Politz site, that</p> <p>23 was on your way to this office this morning?</p> <p>24 A. No. I arrived yesterday afternoon late,</p> <p>25 and I just drove by. I do so many of these reports</p>

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<p>1 sometimes they start running together as far as what 2 the ground looked like, so I just simply drove by it 3 and refreshed my memory briefly. I didn't get out 4 of the car, just windshield look and came on. 5 Q. Is there anything you saw at the Politz 6 residence when you drove by it yesterday that is 7 significant for the opinions you express in your 8 report? 9 A. No. 10 Q. Have you met with Mr. and Mrs. Politz's 11 attorneys in connection with this case before today? 12 A. Just briefly with Ms. Tynes this morning. 13 I briefly discussed it with Kristopher Carter on the 14 telephone, but I have not met with him, no. 15 Q. Can you tell me what you and Mr. Carter 16 discussed on the telephone call? 17 A. Nothing other than the completion date, 18 here it is, and I didn't discuss any of the 19 specifics of the report. 20 Q. How long ago was that call with 21 Mr. Carter? 22 A. Since July, sometime in the late summer of 23 '08, I think. 24 Q. August about? 25 A. Yes, about August, I would think.</p>	<p>1 knowledge of structural engineering, textbook type 2 stuff. My structural calculations are included in 3 the report. I didn't have to refer to a textbook, 4 but that's where it came from in my college days. 5 I'd looked at some codes and, again, I didn't have 6 to refer to those because I knew what the loadings 7 were for certain mile per hour winds and so on, on 8 size and buildings, but that's just rudimentary 9 background of a structural engineer. 10 Other documents -- and you say specific -- 11 I specifically relied on. I didn't rely on all of 12 these other meteorology reports, but I've read many, 13 many, many all along the coast including in Long 14 Beach where I've done numbers of studies. 15 Obviously, they, as I said before, are just 16 cumulative to Mr. Calaci's report as far as the 17 sequence and strength of the winds, et cetera. 18 Q. And I know that you've looked at and -- 19 received and looked at Mr. Calaci's report because 20 it's attached to your report. Have you received 21 reports from any other experts in this case, the 22 Politz case? 23 A. No. 24 Q. You haven't looked at the reports from 25 Nationwide's experts?</p>
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<p>1 Q. Is that the only time that you have spoken 2 with Mr. Carter about this report? 3 A. Yes. 4 Q. How many reports in Hurricane Katrina 5 litigation have you prepared for the Denham Law 6 Firm? 7 A. I haven't counted them. It would be a 8 number. 30 probably. 9 Q. Were all of those in lawsuits brought by 10 homeowners against insurance companies? 11 A. Yes. 12 Q. Other than talking with plaintiffs' 13 counsel, have you -- did you do anything else to 14 prepare for your deposition today? 15 A. Simply re-read the file and reviewed 16 everything in the file. 17 Q. Have you -- other -- and when you say the 18 file, do you mean your report? 19 A. My report and the documents in my report 20 which I furnished you copies of. 21 Q. Other than your report and the documents 22 which you produced to us, what other documents have 23 you looked at in connection with your work on the 24 Politz case? 25 A. Well, there's certainly my engineering</p>	<p>1 A. Let me see. I may have. I don't 2 remember. 3 Q. Those would be Preston Campbell of Conso, 4 LeRovers & Associates and Kevin Kennedy & Associates 5 meteorology reports. 6 A. I don't normally look at them unless they 7 give them to me, and they weren't in this case, so I 8 have not seen them, no. 9 Q. If you had received them and reviewed 10 them, they would have been in your file? 11 A. Yes, they would have. 12 Q. And as we sit here today, you don't 13 specifically recall looking at the reports from 14 Nationwide's experts about the Politz case, do you? 15 A. No. 16 Q. Okay. Have you been asked to -- I guess 17 the answer to this is probably no, but I'll ask it 18 anyway. Have you been asked to prepare any rebuttal 19 or response to the reports of Nationwide's experts 20 in this case? 21 A. Not yet, no. 22 Q. And other than the documents that we've 23 just talked about today, is there anything else as 24 you sit here today that you can think of that you 25 relied on in preparing this report for the Politzes?</p>

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<p>1 A. I don't think so. It would be mentioned 2 in my report if I relied on it.</p> <p>3 Q. That's fine. And again, I know you've 4 taken depositions before. I will just mention this: 5 If at any time during the deposition you remember 6 something that you couldn't remember previously or 7 you think an answer you gave was somehow inaccurate 8 or incomplete, just let us know after we finish the 9 question we're dealing with, and I'll give you an 10 opportunity to supplement your answer. Is that 11 fair?</p> <p>12 A. That's okay. Thanks.</p> <p>13 Q. I'm going to show you what's been marked 14 as defense Exhibit 155. 15 (Exhibit 155 marked for identification.)</p> <p>16 Q. (By Mr. Gilmore) Do you recognize this 17 document --</p> <p>18 A. Yes, I do.</p> <p>19 Q. -- Mr. Biddy? What is this?</p> <p>20 A. This is my schedule of professional fees 21 for -- specifically for Hurricane Katrina cases.</p> <p>22 Q. And I'll represent to you this was 23 produced to us by the plaintiffs. Is this schedule 24 the one that would be applicable for the work you've 25 done for the plaintiffs in this case?</p>	<p>1 have done one very large motel. I have done 2 several -- I can't remember how many -- commercial 3 buildings. Probably in the neighborhood of five. 4 I've done one hotel, free-standing hotel. I've done 5 a school building. I've done 250 cases about, and 6 of those, probably 20 percent or so or 15 or 20 7 percent were other than residences.</p> <p>8 Q. So 80 to 85 percent of the Hurricane 9 Katrina reports you prepared are for homeowners?</p> <p>10 A. Correct.</p> <p>11 Q. And how much do you charge for parties 12 other than homeowners, hourly rate?</p> <p>13 A. It's a \$200 hourly rate if I do it by 14 hourly rate. Most times, we will negotiate a lump 15 sum for the party, but it will be based on \$200 per 16 hour.</p> <p>17 Q. In the -- you gave a deposition in the 18 case Schmerman versus Nationwide back in August. Do 19 you recall that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. And during that deposition, you identified 22 one report you did for an insurance company. Do you 23 recall that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. I believe that was Fidelity; is that</p>
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<p>1 A. Yes, it would and attached to that is a 2 copy of my invoice to the plaintiff, the Politzes.</p> <p>3 Q. And that's right, and the -- the fees 4 which we'll go over in a second, the second page of 5 this document, Politz-301, those are based on those 6 scheduled professional fees in Politz-300?</p> <p>7 A. Essentially, yes.</p> <p>8 Q. Okay. And the first item on this schedule 9 of professional fees indicates \$100 per hour for 10 your services in inspections, photographs, 11 evaluations, analyses and reports for homeowners; is 12 that correct?</p> <p>13 A. Yeah, the operative word there is "for 14 homeowners." That's half my normal fee.</p> <p>15 Q. And so you give homeowners a break in 16 the -- the cases that you provide them expert 17 reports?</p> <p>18 A. That's correct.</p> <p>19 Q. Do you do other Hurricane Katrina work for 20 parties other than homeowners?</p> <p>21 A. Yes.</p> <p>22 Q. And can you tell me who those other 23 parties would be?</p> <p>24 A. I have done two museums, one very large 25 one in Biloxi, and another one in Ocean Springs. I</p>	<p>1 correct?</p> <p>2 A. Fidelity, correct.</p> <p>3 Q. Can you tell me a little bit about that 4 report?</p> <p>5 A. Well, it was a report requested by an 6 attorney with the law firm in Biloxi of Page, 7 Mannino, Peresech and others, one of their 8 attorneys. I had done a number of reports for them 9 on wind destructed buildings, and one of their 10 attorneys came to me, and while I was there on 11 another case and asked me could I prove wind 12 destruction of a certain building in Bay St. Louis, 13 and I took a look at the location, and based on 14 others I had done in adjacent areas, I told him yes, 15 I could. He said, well, Fidelity would like to hire 16 you to prepare such a report. I said all right, 17 fine. I prepared my normal report with my history 18 of the storm and sequence of the storm, my analysis 19 of the structure, went to the site and took pictures 20 and did the inspections and determined that the 21 house, in fact, did blow away and that's what they 22 wanted was -- they had paid, I think, flood damages 23 out to the house, and they wanted to prove that most 24 of the damages were caused by wind.</p> <p>25 Q. Have you given any other -- have you --</p>

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<p>1 I'm sorry. Have you prepared any other expert 2 reports for any other insurance companies other than 3 Fidelity? 4 A. Are you asking specifically for Katrina 5 cases? 6 Q. For Katrina cases, yes. 7 A. No. 8 Q. Is it fair to say then in all of the 9 Hurricane Katrina expert reports you've prepared, 10 the parties that retained you were asserting wind 11 had caused most or all of the damage to their 12 property? 13 A. Yes. 14 Q. And in any of the reports that you 15 prepared for all of these parties in Hurricane 16 Katrina litigation, have you ever reached a 17 conclusion other than that wind caused most or all 18 of the damage to the property? 19 A. Yes, I have had to assign percentages on a 20 good many occasions, which I do my best estimate so 21 much percent wind, so much percent water, especially 22 if the building remains after the storm. And 23 sometimes it's a case where it's opened up on one 24 side and blown out on the backside, and it just 25 stands there and water comes in later and destroys</p>	<p>1 in this case. Structural damage in houses that are 2 like the Politz's in which all structure was gone, 3 that was all due to wind, the structural 4 destruction. Now, obviously, water came later and 5 whatever was left of the house or the furnishings 6 and what not were then destroyed by water, and so I 7 couldn't give you a percentage. I'd have to go 8 through and tabulate all of my files to know, but 9 the -- even in this case, I'm sure I mentioned that 10 the water came in later and destroyed whatever was 11 left. It's impossible for me to sit here and tell 12 you what -- what was left. I don't know. 13 Something, of course. 14 Q. So you wouldn't rule out the possibility 15 in this case that there's some part of the structure 16 and contents left that was then destroyed by the 17 storm surge? 18 A. No, I wouldn't rule that out. I think the 19 pictures, the after storm pictures kind of give you 20 a real good idea of what's -- what's left and the 21 owners around the property and the remnants of their 22 house there on the slab and a good deal of their 23 debris all around. What final portion of that was 24 destroyed by the water, I don't know. My conclusion 25 is that the structural part of the house was</p>
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<p>1 whatever is left, usually. 2 Q. How many reports -- how many Hurricane 3 Katrina reports have you prepared where you have, I 4 guess, estimated that not all of the damage was 5 caused by wind? 6 A. I think most of my reports will state that 7 water came in later and destroyed whatever was 8 remaining. 9 Q. Well, I guess my -- I think I understand 10 your answer, but my question was just a little 11 different. Of the Hurricane Katrina reports you 12 prepared, how many of them -- what percentage of 13 them have you concluded the property was destroyed 14 solely by wind before water did any damage to it? 15 A. I -- I would have to go through all of my 16 reports and tabulate them, but it would be the 17 majority. 18 Q. It would be the majority. And 19 specifically with respect to homeowner claims like 20 this one here with plaintiffs where their house was 21 completely destroyed, of those reports that you 22 prepared, how many did you conclude that wind was 23 the sole cause of damage to the property? 24 A. Well, you need to further define the word 25 damage. Structural damage comes first by the wind</p>	<p>1 destroyed by the winds before the waters got there. 2 Q. And we'll go through your report, but I 3 guess let me back up for a second. Would you 4 characterize this claim as a slab claim? 5 A. Yes, it's a slab case. 6 Q. And of slab cases for homeowners where 7 you've prepared expert reports, how many then have 8 you concluded that the structure was destroyed by 9 wind before the water reached the property? 10 A. Most simply because of the sequence, and 11 we can get into all of that if you'd like. 12 Q. Would it be fair to say nearly all of 13 them? How about a percentage? Do your best. 14 A. The word destruction whether it was 15 destroyed or greatly damaged, yes, the winds did its 16 work hours ahead of the water, let's just put it 17 that way, on all of them. 18 Q. Well, I mean, and, again, we'll talk a 19 little bit more about the sequence, and I guess I'm 20 just trying to maybe define terms so that we are on 21 the same page. When you say a residence such as 22 Politz residence was destroyed, what does that mean 23 to you? 24 A. Structurally destroyed? 25 Q. Structurally destroyed.</p>

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<p>1 A. It's gone, number one, and it was blown 2 away. 3 Q. So there wouldn't be -- I'm sorry, I 4 didn't mean to interrupt, but -- but go ahead. 5 Complete your question -- your answer. I'm sorry. 6 A. What I do when -- when I do my 7 inspections, I find the mechanism of destruction of 8 the house, and that's usually pretty easy to 9 determine, especially if the house was totally blown 10 away or the great bulk of it was, and there's about 11 three mechanisms of destruction I look for and find 12 on a totally destroyed case when there's still some 13 part of the structure there and also find the 14 mechanisms of destruction. 15 Q. And so in totally destroyed homeowner 16 cases that you've worked on, of those, is it fair to 17 say 90 percent at least, you've reached a conclusion 18 that wind caused that destruction before the water 19 reached the property? 20 A. Yes. 21 Q. Would it be fair to say even almost 100 22 percent? I know you've done -- 23 A. It would be -- 24 Q. -- a lot of reports so... 25 A. It would be fair to say that wind did</p>	<p>1 A. Rodney Shreve is -- that's my son-in-law 2 for one thing, but he's an expert inspector. He's a 3 licensed electrician. Rodney came with me on a 4 number of these inspections during this three-year 5 period. I've had two back operations during that 6 period, and many times, I was hopping around on a 7 cane, and he was -- he was able to do some of the 8 physical climbing on debris and what not and walking 9 around and taking pictures at my direction and so 10 on, but he was just a general helper. 11 Q. What -- what are his -- what's his 12 experience in, credentials? 13 A. He's been in the construction industry for 14 20 years or so. That's all. He has a high school 15 education and a little college, I think, but he's a 16 licensed electrician. He did not contribute 17 anything technical to this report. He just simply 18 assisted me. 19 Q. And when you said he simply assisted you, 20 I guess can you just describe what he did 21 specifically on the Politz report? 22 A. Well -- 23 Q. That you didn't do, for instance. 24 A. When we got to the site, he -- and this is 25 one of those times when I -- either my back -- had a</p>
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<p>1 whatever it could in way of destruction before the 2 water got there, ahead of the water. Whatever 3 damage and/or destruction that these strength winds 4 could do to this -- any particular structure, it did 5 it before the water got there. 6 Q. And you've reached that conclusion with 7 respect to residences that were totally destroyed in 8 nearly all of the cases that you've prepared expert 9 reports; is that correct? 10 A. Yes. 11 Q. All right. Let's go back to Defense 12 Exhibit 155 on your schedule of professional fees 13 and your invoice to the Politzes. You have listed 14 under the schedule a fee for inspection assistant. 15 A. Yes. 16 Q. And it's \$75 per hour; is that correct? 17 A. Yes. 18 Q. And in fact, in your report, you 19 referenced relying on the work of a person Rodney 20 Shreve. 21 A. Correct. 22 Q. He was your inspection assistant who 23 helped you in the Politz report? 24 A. That's correct. 25 Q. Who is Rodney Shreve?</p>	<p>1 back operation or an epidural shot or something was 2 the reason he was along because I was handicapped 3 somewhat. He got the folding chair out of the back 4 of the car or his -- his Jeep and set it up for me 5 while I -- in a close location so I could start 6 taking notes and telling him what to do. 7 Q. So you -- he accompanied you to the 8 Politz -- 9 A. Yes. 10 Q. -- home site? 11 A. Yes. 12 Q. Was he the one who took any photographs 13 you took of the site when you visited there? 14 A. He was. 15 Q. Did he do anything else to help you 16 prepare this report other -- 17 A. Did he? 18 Q. Yes. 19 A. No. 20 Q. Again, going back to your schedule of 21 professional fees, depositions, expert trial 22 testimony and consultations with attorneys, that's 23 \$200 per hour. Is that the charge you -- the fee 24 you charged the plaintiffs -- 25 A. Correct.</p>

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9 (Pages 30 to 33)

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<p>1 Q. -- here?</p> <p>2 A. With a minimum of an eight hour charge on</p> <p>3 the day of the deposition, and I charge travel time</p> <p>4 as well.</p> <p>5 Q. Now, turning over to the next page,</p> <p>6 there's an invoice addressed to Mrs. Politz in care</p> <p>7 of Kristopher Carter here at the Denham Law Firm</p> <p>8 dated July 15th, 2008. Do you recognize that</p> <p>9 invoice?</p> <p>10 A. Yes, I do.</p> <p>11 Q. Is that your final invoice that you --</p> <p>12 A. It is.</p> <p>13 Q. -- presented to -- in connection with this</p> <p>14 case?</p> <p>15 A. It is.</p> <p>16 Q. The inspection report figure of \$4,500</p> <p>17 listed there, that includes your services as well as</p> <p>18 Mr. Shreve's?</p> <p>19 A. Yes, and that was a little bit of a</p> <p>20 departure from the normal schedule because</p> <p>21 Mr. Denham had given me so many cases, I had agreed</p> <p>22 with him to give them a discount. If you'll note --</p> <p>23 if you'll notice on the first page, I say a minimum</p> <p>24 of 50 hours charge. Well, my time could be \$5,000,</p> <p>25 but because Mr. Denham was giving me a large volume</p>	<p>1 Q. Okay. About how many homeowner cases have</p> <p>2 you worked on in Hurricane Katrina litigation?</p> <p>3 A. I would say around 200.</p> <p>4 Q. Around 200?</p> <p>5 A. I think it was 50 of the others.</p> <p>6 Q. So that -- I think by my math that would</p> <p>7 be about 1.2 million in fees for homeowner reports</p> <p>8 if you multiply 6,000 by --</p> <p>9 A. Gross over three years, yes, that's about</p> <p>10 right.</p> <p>11 Q. And then the other 50 have been -- those</p> <p>12 have been higher amounts for companies or commercial</p> <p>13 properties?</p> <p>14 A. As a rule, yes, they would be higher.</p> <p>15 Q. Do you know about how much above and</p> <p>16 beyond the 1.2 million you've earned in fees for</p> <p>17 homeowner reports you've earned for other reports</p> <p>18 for other parties in Hurricane Katrina litigation?</p> <p>19 A. I have no idea, but it was some that are 7</p> <p>20 or \$8,000, some are 10,000. One big museum in</p> <p>21 Biloxi was -- it was a \$20 million project that was</p> <p>22 destroyed by winds was 45,000, I believe, so I think</p> <p>23 that would be the highest, but it varies.</p> <p>24 Q. Would it be fair to say when you add those</p> <p>25 50 other reports in, would it carry over 2 million?</p>
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<p>1 of work, I'd agreed the lump sum on these would be</p> <p>2 4,500 each plus the cost.</p> <p>3 Q. So you've done so many cases for the</p> <p>4 Denham Law Firm that you've given them like a bulk</p> <p>5 discount rate?</p> <p>6 A. Yes.</p> <p>7 Q. Your normal rate is 5,000, is that --</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then you add --</p> <p>10 A. For homeowners.</p> <p>11 Q. And then you add some expenses that add a</p> <p>12 little under another \$1,000, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. So is this total invoice figure, we'll</p> <p>15 call it 5,500, is that -- he's paying you \$500 lower</p> <p>16 than your average report?</p> <p>17 A. That's right, uh-huh.</p> <p>18 Q. Your average report is about 6,000?</p> <p>19 A. With expenses.</p> <p>20 Q. With expenses?</p> <p>21 A. Uh-huh, about.</p> <p>22 Q. And now, I said -- earlier you said you</p> <p>23 have done about 250 of these reports. Was that 250</p> <p>24 figure for homeowners or total?</p> <p>25 A. No, total.</p>	<p>1 A. No, I wouldn't say that, no.</p> <p>2 Q. Somewhere between one-and-a-half million?</p> <p>3 A. Well, let's say, I don't know what they</p> <p>4 would average, but if they averaged \$10,000, and</p> <p>5 there were 50 of them, that would be half a million</p> <p>6 dollars, wouldn't it?</p> <p>7 Q. Uh-huh.</p> <p>8 A. Yeah.</p> <p>9 Q. So maybe about 1.7?</p> <p>10 A. In that range, yeah, I think so.</p> <p>11 Q. You can set that aside. I'm going to show</p> <p>12 you what's been marked as Defense Exhibit 156.</p> <p>13 (Exhibit 156 marked for identification.)</p> <p>14 Q. (By Mr. Gilmore) This is a copy of your</p> <p>15 CV that's been produced to us in this litigation.</p> <p>16 Do you recognize it as that?</p> <p>17 A. Yes.</p> <p>18 Q. And if you turn to the back, the last</p> <p>19 page, Politz-294 of Defense Exhibit 156, it says</p> <p>20 updated January 31st, 2008. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Do you have a more current version of your</p> <p>23 CV than this one here?</p> <p>24 A. Yes, I have updated it to August or so of</p> <p>25 '08, but the only thing that changed is because</p>

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<p>1 that's all I'm doing this year is between the</p> <p>2 clients instead of the 200 -- it says 200 Katrina</p> <p>3 cases up at the top of that page, it would say what</p> <p>4 it was at that time, 220, 230, about, and --</p> <p>5 Q. And now that's 250?</p> <p>6 A. Yeah, that's right, about.</p> <p>7 Q. And I'd ask if you have an updated vision</p> <p>8 of your CV, if you could provide that to counsel for</p> <p>9 the plaintiffs so that they can produce that to</p> <p>10 Nationwide.</p> <p>11 A. Okay.</p> <p>12 Q. Now, I know you and my colleagues talked</p> <p>13 about what you had done through maybe end of August</p> <p>14 the last time you sat for depositions in Nationwide</p> <p>15 cases.</p> <p>16 A. Uh-huh (affirmative response).</p> <p>17 Q. Since -- I think August 22nd was the last</p> <p>18 deposition. Have there been anything in the past</p> <p>19 two or three months that -- that you would not have</p> <p>20 told them about that you might want to add to</p> <p>21 your -- that you've added to your CV, and you think</p> <p>22 is relevant to your experience?</p> <p>23 A. No. Obviously, there was more cases, but</p> <p>24 it's cumulative to what's in my CV.</p> <p>25 Q. 1957, you earned a degree from The</p>	<p>1 in earning that degree?</p> <p>2 A. No, but I took some graduate studies in</p> <p>3 geodesy, which is just another field of civil</p> <p>4 engineering.</p> <p>5 Q. What is geodesy?</p> <p>6 A. Geodesy is the study of the earth and its</p> <p>7 shape and its position in the universe and the solar</p> <p>8 system within the universe, so it's very high class</p> <p>9 surveying, very precise surveying. It's something</p> <p>10 that's totally out of date now because of GPS</p> <p>11 systems and satellites, but back in those days, you</p> <p>12 did it by observation of stars and their</p> <p>13 relationship with the earth and the celestial</p> <p>14 sphere, but I did not complete that masters work</p> <p>15 because I had a family and had to go to work and</p> <p>16 support them.</p> <p>17 Q. I understand that. Geodesy doesn't have</p> <p>18 any application to the work you've done in the</p> <p>19 Politz case, right?</p> <p>20 A. I'd say no, other than civil engineering</p> <p>21 would be -- and structural engineering would include</p> <p>22 an element of surveying, of course, and the -- I do</p> <p>23 have in Appendix D, I have the -- a plat of the</p> <p>24 house on the property and that was, of course,</p> <p>25 important to know.</p>
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<p>1 Engineer's School. What degree is that?</p> <p>2 A. Topographic surveying at Ft. Belvoir.</p> <p>3 Q. And I guess what kind of degree is that?</p> <p>4 A. Well, the U.S. --</p> <p>5 Q. Is that a bachelors?</p> <p>6 A. No, it's not a bachelors. I left Georgia</p> <p>7 Tech, interrupted my schooling in 1957 and went in</p> <p>8 the Army for three years and went back to Tech after</p> <p>9 that. As soon as I got in the Army, they sent me</p> <p>10 to -- after I went through basic training, they sent</p> <p>11 me to Ft. Belvoir to engineering school to study</p> <p>12 topographic surveying, and then to work as a</p> <p>13 topographic surveyor the time I was in the Army.</p> <p>14 Q. How long were you in the Army?</p> <p>15 A. Three years.</p> <p>16 Q. Were you -- did you receive an honorable</p> <p>17 discharge?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And after you left the Army, is that when</p> <p>20 you resumed your schooling at Georgia Tech?</p> <p>21 A. Correct.</p> <p>22 Q. And you earned a bachelors of science in</p> <p>23 civil engineering in 1963?</p> <p>24 A. Correct.</p> <p>25 Q. Do you have any minors or concentrations</p>	<p>1 Q. Why was the plat important to know?</p> <p>2 A. It gives the position of the house as</p> <p>3 it -- as it sits on the lot and its orientation. It</p> <p>4 is oriented north 31 degrees east, the front of it,</p> <p>5 and the back of it then, therefore, is south 31</p> <p>6 degrees west. It has an entire east side that is</p> <p>7 oriented to the -- to the southeast where the east</p> <p>8 -- east and southeast where the strongest winds came</p> <p>9 from.</p> <p>10 Q. Your looking at the plat, I mean, that</p> <p>11 doesn't involve any knowledge or expertise of</p> <p>12 geodesy, right? I mean, you can just kind of look</p> <p>13 at the plat and know --</p> <p>14 A. Surveying --</p> <p>15 Q. Right, in order to generate that, you</p> <p>16 might need to have some knowledge of geodesy, but to</p> <p>17 look at it and interpret it, a layman can see the</p> <p>18 layout and the direction of the property, correct?</p> <p>19 A. I would think so, yes.</p> <p>20 Q. Other than the degrees, formal degrees</p> <p>21 that you have here, are there any other educational</p> <p>22 degrees that you've earned?</p> <p>23 A. No.</p> <p>24 Q. I mean, you list a number of</p> <p>25 registrations. Are these for engineering licenses</p>

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<p>1 you hold?</p> <p>2 A. Some are engineering licenses and some are</p> <p>3 land surveying licenses.</p> <p>4 Q. That's correct, land surveyor, three of</p> <p>5 them are as well. Are all of the -- as we sit here</p> <p>6 today, are these registrations -- are they current</p> <p>7 and in good standing?</p> <p>8 A. Well, when you say registrations, are they</p> <p>9 current and in good standing, yes. The license</p> <p>10 itself is something you renew year by year. I don't</p> <p>11 keep all my licenses active in other states when I'm</p> <p>12 not working there. Right now, I have active license</p> <p>13 in Florida and Mississippi and South Dakota, the</p> <p>14 three for engineering. The others are dormant, and</p> <p>15 should I need to work in Georgia, I will simply make</p> <p>16 application for relicensure, which is simply paying</p> <p>17 your money and sending the application in. You</p> <p>18 become registered by passing a national exam and</p> <p>19 having that of record. I did that in Mississippi in</p> <p>20 1967, and that national exam has been reciprocated</p> <p>21 in seven other states.</p> <p>22 Q. And those seven states, would those be the</p> <p>23 ones listed here?</p> <p>24 A. Yes.</p> <p>25 Q. Florida, Georgia, Louisiana, South Dakota,</p>	<p>1 staked some townhouses off by three point something</p> <p>2 feet, and those townhouses were built, and I</p> <p>3 prepared the plats and people transferred the title</p> <p>4 to those townhomes by those plats, and it turned out</p> <p>5 that the error was found, which I did correct all of</p> <p>6 the plats, and the title -- me and the title company</p> <p>7 worked out the title problems, but somebody filed a</p> <p>8 complaint with the State Board of Professional Land</p> <p>9 Surveyors.</p> <p>10 Q. What state was this in?</p> <p>11 A. Florida. And they investigated and came</p> <p>12 to me, and I said, well, it happened, you know, and,</p> <p>13 yeah, one of my crews made a mistake, and I</p> <p>14 corrected it and I essentially pled guilty that it</p> <p>15 was work that didn't meet the minimum technical</p> <p>16 standards, and so I went before the board, and they</p> <p>17 gave me the minimum fine which was \$750, and they</p> <p>18 had me send in the next five surveys, I think, for</p> <p>19 their review. That was the only one of any</p> <p>20 consequence and any sanction or any fine.</p> <p>21 I did receive a letter of guidance one</p> <p>22 time from the Florida Board of Professional</p> <p>23 Engineers. I had prepared a structural drawing for</p> <p>24 an interior decorator for some shelves to carry some</p> <p>25 heavy duty items in a mall for a store, and an</p>
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<p>1 Nebraska and Missouri?</p> <p>2 A. That is correct.</p> <p>3 Q. Maybe I'm missing one. It looks like</p> <p>4 those are six. Is it seven total states in which</p> <p>5 you are registered, Mississippi and then six others?</p> <p>6 A. That -- as a professional engineer that is</p> <p>7 correct.</p> <p>8 Q. Okay.</p> <p>9 A. Same thing is true on land surveyor</p> <p>10 license. I keep my Florida license current, but not</p> <p>11 my Mississippi and Georgia license because I don't</p> <p>12 do the land surveying here. I subcontract that out</p> <p>13 to people with their own firms that used to work for</p> <p>14 me.</p> <p>15 Q. Other than these states, these seven</p> <p>16 states that we just talked about, have you ever been</p> <p>17 licensed as an engineer in any other states?</p> <p>18 A. No.</p> <p>19 Q. Have you ever been sanctioned, disciplined</p> <p>20 or reprimanded in any way by any licensing board?</p> <p>21 A. On two occasions, I guess, and I think we</p> <p>22 -- I talked to this some -- with some of your people</p> <p>23 before.</p> <p>24 Q. Uh-huh.</p> <p>25 A. One was a case where one of my surveyors</p>	<p>1 architect complained that I was practicing</p> <p>2 architecture. Well, I wasn't, and when they came to</p> <p>3 investigate, I showed them the drawings that said --</p> <p>4 with my seal on it and my signature, and it said</p> <p>5 "for structural only." Well, I received a letter of</p> <p>6 guidance from the state board saying put your</p> <p>7 details on a separate sheet when you're doing</p> <p>8 subcontract work for others like that. Other than</p> <p>9 those two, I can't remember any others.</p> <p>10 Q. Okay. And the two, what years did those</p> <p>11 occur?</p> <p>12 A. The one with the letter of guidance would</p> <p>13 have been in the mid-'70s in Florida. The one from</p> <p>14 the Florida Board of Land Surveyors would have been</p> <p>15 in the mid-'80s. That's two instances in a 45 year</p> <p>16 career.</p> <p>17 Q. Your -- your license was inactive in</p> <p>18 Mississippi from 1990 to 2005; is that correct?</p> <p>19 A. Yes, I believe '89 was the last year it</p> <p>20 was active in Mississippi until 2005, that's</p> <p>21 correct.</p> <p>22 Q. And you activated your license in</p> <p>23 Mississippi again specifically to work on Hurricane</p> <p>24 Katrina claims?</p> <p>25 A. In the early part of 2006.</p>

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<p>1 Q. Why did you allow your license to become 2 inactive in Mississippi in that 15 year time period? 3 A. Very simply, I wasn't doing work here. I 4 was headquartered in Tallahassee, been working in 5 Florida and Georgia and spread up to some work in 6 the northwest into South Dakota and Missouri and 7 Nebraska, and I just wasn't doing work in 8 Mississippi. My license was originally -- I was 9 originally registered in Mississippi in 1967 by 10 national exam and worked continuously until 1989, at 11 which time I moved my office to Tallahassee. 12 Q. How long did -- how long did you live in 13 Mississippi? Were you living here during that 14 period? 15 A. I lived here from -- after school in 1963, 16 I went to work for the firm of Michael Baker, Jr., 17 Incorporated in Jackson, and I worked in and out of 18 their Jackson office and all over the southeast 19 until 1969, at which point I went into business for 20 myself in Jackson and went -- the only office I had 21 was in Jackson at that time and worked then until -- 22 I was a resident there until 1971, I think it was. 23 I moved my residence to Florida at that point and to 24 establish the branch office in Tallahassee simply 25 because I had a fairly large contract there. And as</p>	<p>1 A. Yes. 2 Q. About how many? 3 A. It varied from two to 10. 4 Q. Prior to Hurricane Katrina, how many 5 hurricane-related work or properties have you done 6 inspections on? 7 A. Many. 8 Q. Can you give me a rough estimate? More 9 than 100? 10 A. No. It wouldn't be more than 100. It 11 would be less than 50. 12 Q. So it's fair to say that the great 13 majority of your hurricane-related work has been 14 Hurricane Katrina cases? 15 A. Simply because there's so much of it, yes. 16 Q. Of the less than 50 hurricane cases that 17 you worked on before Hurricane Katrina, how many of 18 those were homeowner -- sorry, individual 19 residences? 20 A. A few. Most of them were in connection 21 with major projects one way or another. For 22 instance, 1969, Hurricane Camille hit the 23 Mississippi Gulf Coast. At that point, I was still 24 a project engineer with Michael Baker, Jr., 25 Incorporated in Jackson. I was the project manager</p>
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<p>1 time went on, the work picked up in Florida to the 2 extent it dwindled off in -- in Mississippi, and you 3 just can't spread yourself thin -- so thin that you 4 can't cover all bases, so I simply quit doing work 5 in Mississippi. 6 Q. You -- in 1969 after you left Michael 7 Becker [sic] firm, you founded your own consulting 8 firm; is that correct? 9 A. That's correct. 10 Q. What was the name of that? 11 A. The first name was Biddy & Sims, Inc. 12 S-I-M-S. 13 Q. You were partners with someone named Sims? 14 A. Correct. 15 Q. Was he or she also an engineer? 16 A. Yes, he was a structural engineer. 17 Q. And how -- how long were you partners with 18 Mr. Sims? 19 A. Up until probably the late '70s, I guess. 20 Q. And then you and he separated, and you ran 21 your company by yourself? 22 A. Yes. It was under the name of Ted L. 23 Biddy & Associates, Inc. 24 Q. Did you have other engineers working under 25 you?</p>	<p>1 and project engineer for a number of projects on the 2 Mississippi coast. As soon as the hurricane hit, 3 they sent me here to evaluate all of those projects 4 and the effects of the hurricane on it -- of 5 Hurricane Camille on those. That was the start of 6 it. 7 Q. I guess can you give me a rough estimate 8 of how many pre-Hurricane Katrina residential 9 properties you inspected for hurricane damage? I 10 mean, was it less than 10? 11 A. No, 15. I don't -- I'm guessing, but 12 during -- for instance, Hurricane Camille, I was 13 doing a subdivision that's just to the east of Ocean 14 Springs called St. Andrews on the Gulf. It's a golf 15 course residential subdivision. I did all of the 16 design work for that subdivision on infrastructure. 17 And some of the early residences, the U.S. Steel 18 was -- had a prefab steel structure at that time for 19 houses that they were promoting, and I helped them 20 with some of their design through Michael Baker's 21 firm, and some of those residences were damaged 22 during Hurricane Camille. And of course, I did a 23 report and then ran the report to my bosses at 24 Michael Baker of the whole -- what I found and what 25 the cause of the damages were. And also the port</p>

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<p>1 facilities, two ship terminals, I had done at Bayou 2 Prasad in Pascagoula and one on the Pascagoula 3 River, a -- another water system I had done for 4 Standard Oil. They were our client for Michael 5 Baker, and in general, a description of all the 6 damages to the projects we had been the engineer on 7 and what damages were caused, so -- and probably 8 half a dozen houses in St. Andrews that suffered 9 varying amounts of damage that I did a report on.</p> <p>10 Q. Mr. Bidby, how many -- prior to -- prior 11 to Hurricane Katrina, how many properties of any 12 type have you inspected where the property was 13 substantially damaged by flood of any type?</p> <p>14 A. By flood of any type, a lot.</p> <p>15 VIDEOGRAPHER: One minute.</p> <p>16 MR. GILMORE: You can go off the record.</p> <p>17 VIDEOGRAPHER: Off the record at 9:57.</p> <p>18 End of tape one.</p> <p>19 (Off the record.)</p> <p>20 VIDEOGRAPHER: Beginning tape two. On the 21 record at 10:11.</p> <p>22 Q. (By Mr. Gilmore) Mr. Bidby, when we went 23 on break, I was asking about your experience before 24 Katrina handling flood claims. Let me ask you a 25 more specific question. Before Katrina, how many</p>	<p>1 had both wind and water damage. As you can imagine, 2 a commercial building built very strongly withstood 3 the wind maybe with heavy damage, but then the water 4 came in and caused great damage, and a lot of that 5 occurred along, and that's the reason I included 6 that as -- as one. There was a bunch of them. I 7 didn't count them.</p> <p>8 Q. Let me ask a more precise question then. 9 Before Hurricane Katrina, how many residential 10 properties did you inspect in an effort to determine 11 cause and origin of damage where the properties had 12 suffered some storm surge damage from a hurricane?</p> <p>13 A. You want me to restrict that strictly to 14 residential structures, correct?</p> <p>15 Q. That's right.</p> <p>16 A. Hurricane Camille would be, let's say, a 17 round number of 10. I'm guessing about 10. 18 Residential structures that I saw and cataloged 19 storm damage at Gulf Shores would be 25, I suppose. 20 Structures in Panama City after Hurricane Betsy 21 would be -- no, well, I take that back. 22 Condominiums counts as a residential structure and 23 that would be one large condominium and the 24 infrastructure that I was designing around it.</p> <p>25 Q. And I'm confining my question to storm</p>
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<p>1 properties had you inspected that had suffered flood 2 or storm surge damage as a result of a hurricane?</p> <p>3 A. How many properties?</p> <p>4 Q. Of any type.</p> <p>5 A. That would be difficult to estimate. I'd 6 just say Hurricane Camille would be -- I mean, 25 to 7 30. Hurricane Frederick at Gulf Shores, Alabama 8 would be 50 to 100 maybe.</p> <p>9 Q. Well, hold on. I'm a little confused now. 10 Earlier during the deposition, you had testified 11 that before Hurricane Katrina, you had worked about 12 50 hurricane claims or hurricane properties.</p> <p>13 A. That's true. That was not a hurricane 14 claim, I mean, from the homeowners at Gulf Shores, 15 Alabama. That was work under contract with the U.S. 16 Army Corp of Engineers assessing -- cataloging all 17 of the damage on the water side of Gulf Shores along 18 the highway and the beach and the different 19 condominiums and motels and et cetera along the way. 20 In other words, along the beach, we laid out a 21 baseline of several miles and took what we call 22 transections or cross sections across each one with 23 all of the elevations and all of the notations of 24 where various structures were and what condition 25 they were in, et cetera, et cetera. Many of those</p>	<p>1 surge damage so that the residences that you 2 inspected for Hurricane Frederick, did those have -- 3 was storm surge at issue there?</p> <p>4 A. Yes, it was, in addition to -- to wind. 5 As I said, in most -- including, I think, this -- 6 this case, I make the general statement that after 7 the wind did its damage, then the storm surge came 8 in and completed the damage. And I'm trying to 9 break that down as to what percentage is beyond my 10 -- I'm not clairvoyant, I don't know, but most of 11 the damage was by wind.</p> <p>12 That was not true on heavier constructed 13 structures such as condominiums, hotels, museums 14 that I had here, and some structures, some of the 15 residential structures that were built in a path, 16 you would have a half to three-quarters maybe of 17 wind damage and then water came in and did the rest. 18 You know, I can't give you blanket generalizations, 19 but if you want to talk about any specific one, I 20 can.</p> <p>21 Q. I don't -- I don't need you to talk about 22 specific ones. I'm just trying to get a sense of 23 how much experience you had in terms of how many 24 residences you had inspected prior to Katrina that 25 has -- that had damage during a hurricane in which</p>

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14 (Pages 50 to 53)

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<p>1 storm surge played a part.</p> <p>2 A. They would --</p> <p>3 Q. Give me a number. I know it's an</p> <p>4 estimate.</p> <p>5 A. Well, it would be limited to Hurricane</p> <p>6 Katrina -- I mean, Hurricane --</p> <p>7 Q. Camille?</p> <p>8 A. -- Camille in 1969, Hurricane Betsy in the</p> <p>9 '80s and Hurricane Frederick in the '80s, I think.</p> <p>10 It might have been the late '70s, but I think it was</p> <p>11 the '80s.</p> <p>12 Q. Camille, Frederick, Betsy. Can you think</p> <p>13 of any others, any other hurricanes?</p> <p>14 A. Not where I did residential structures.</p> <p>15 Let me explain that. Engineers -- solely engineers,</p> <p>16 as a rule, rarely get involved with houses unless</p> <p>17 it's something like this where it's a massive scale</p> <p>18 and people need engineers to determine the</p> <p>19 causations of damages and what not. Most of the</p> <p>20 structures I would have investigated over my 45 year</p> <p>21 career due to damages from wind and/or flooding</p> <p>22 and/or storm surge were heavy major structures that</p> <p>23 I had designed or else was looking into for the</p> <p>24 owner on some basis.</p> <p>25 Q. It's fair to say before Hurricane Katrina,</p>	<p>1 Q. Mr. Biddy, you don't have any degrees in</p> <p>2 -- formal degrees in meteorology, correct?</p> <p>3 A. No.</p> <p>4 Q. And you've never taken any courses solely</p> <p>5 on meteorology in school; is that correct?</p> <p>6 A. No, other than just what I said, each</p> <p>7 course has an element of it that you study.</p> <p>8 Q. But in terms of you never enrolled in</p> <p>9 meteorology 101 in college, right?</p> <p>10 A. No.</p> <p>11 Q. Or 102 or graduate work or any</p> <p>12 meteorological courses in college?</p> <p>13 A. No.</p> <p>14 Q. You never authored any publications on</p> <p>15 meteorology, correct?</p> <p>16 A. That is correct.</p> <p>17 Q. You don't teach and have not taught in the</p> <p>18 field of meteorology, right?</p> <p>19 A. No.</p> <p>20 Q. And you don't hold yourself out as an</p> <p>21 expert meteorologist?</p> <p>22 A. I hold myself out as an expert in applying</p> <p>23 meteorological data to engineering evaluations.</p> <p>24 Q. But in terms of determining and</p> <p>25 accumulating and analyzing the meteorological data</p>
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<p>1 the great majority of your engineering work on any</p> <p>2 structures that had been damaged by hurricanes was</p> <p>3 on structures other than residential structures?</p> <p>4 A. Well, of course, yes.</p> <p>5 Q. You're not trained in meteorology, are</p> <p>6 you, Mr. Biddy?</p> <p>7 A. Well, I've been asked that question a lot</p> <p>8 of times, and my answer is yes, I am to this extent.</p> <p>9 Each and every course you take in civil engineering</p> <p>10 at Georgia Tech has an element of meteorology, and</p> <p>11 specifically the meteorology of how that -- whatever</p> <p>12 weather condition it is affects your particular</p> <p>13 phase you're studying at the time. For instance,</p> <p>14 civil engineer is a broad field, as you probably</p> <p>15 know, and it covers drainage, storm water</p> <p>16 management, flooding, structures, utilities, roads,</p> <p>17 you name it. It was the first engineering</p> <p>18 discipline that -- long before they separated out</p> <p>19 mechanical and electrical and things of that sort.</p> <p>20 And so meteorology is a situation that affects each</p> <p>21 one of -- of an engineer's work on each one of those</p> <p>22 types of projects, and so you have to learn how the</p> <p>23 meteorological -- meteorological data is obtained,</p> <p>24 how to -- where to go get it and how to apply it to</p> <p>25 your particular situation.</p>	<p>1 itself, you are not a meteorologist. Others do that</p> <p>2 work for you, correct?</p> <p>3 A. I don't generate the data, but I do</p> <p>4 accumulate and analyze it and apply it.</p> <p>5 Q. Well, and when you say you apply it, you</p> <p>6 take meteorological observations and data that other</p> <p>7 meteorologists have prepared, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And then you take those numbers and say if</p> <p>10 these numbers are true, this is what could happen</p> <p>11 from an engineering perspective to a structure; is</p> <p>12 that correct?</p> <p>13 A. Well, there's a little more to it than</p> <p>14 that but --</p> <p>15 Q. Of course, there is.</p> <p>16 A. -- essentially you're --</p> <p>17 Q. I'm just trying -- when you say that you</p> <p>18 applied meteorological data, I want to make sure I</p> <p>19 understand what you're saying.</p> <p>20 A. Yes.</p> <p>21 Q. And, obviously, we'll go into the process</p> <p>22 of you forming your expert opinions, but I just want</p> <p>23 to make sure when we're talking about that, what</p> <p>24 we're talking about is you relying on reports or</p> <p>25 data from other meteorological sources?</p>

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15 (Pages 54 to 57)

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<p>1 A. It's the most important phase of beginning 2 a study of any structure that's been damaged by 3 weather elements is to do the proper research of all 4 the meteorological data that's been published by all 5 governmental agencies, the private meteorologists or 6 wherever it's been published, accumulate all of that 7 and analyze it and -- and determine the strength and 8 sequences of winds and water.</p> <p>9 Q. The sources of meteorological data that 10 you rely on generally in your practice as an 11 engineer, you rely on National Oceanic and 12 Atmospheric Administration, NOAA?</p> <p>13 A. Yes, that's part of it.</p> <p>14 Q. And you also look at the National Weather 15 Service?</p> <p>16 A. Yes, which is a part of NOAA.</p> <p>17 Q. Do you look at FEMA as a source of 18 meteorological information?</p> <p>19 A. Sometimes. FEMA really just -- they come 20 in after the fact and catalog some of the data, but 21 they're not the primary ones, and they don't have 22 the expertise to do what people like NOAA and the 23 National Ocean Survey and the Weather Service and 24 expert private meteorologists do.</p> <p>25 Q. What other -- let's talk about Hurricane</p>	<p>1 I say many, one of the few stations that National 2 Weather Service had to report the data because the 3 anemometers at the airports went down early. They 4 blew down early in the storm, and it was on up in 5 the morning of the -- the morning of the storm, the 6 29th of August of '05 when the towers on the 7 Emergency Operation Center Building in Pascagoula 8 blew down, so they got the -- probably the -- nearly 9 the highest readings, at least. That's one source 10 that comes to mind immediately.</p> <p>11 The second source is the private 12 meteorology reports by meteorologists such as 13 Mr. Rocco Calaci, who is a noted meteorologist, 14 retired military meteorologist who's done a lot of 15 work on Hurricane Katrina and others. Also, 16 AccuWeather from State College of Pennsylvania. 17 We've probably got 15 or 20 that they've done along 18 the Mississippi Coast.</p> <p>19 Q. That would be Steven Wistar?</p> <p>20 A. Yes, Steven Wistar of AccuWeather. The 21 third would be Dr. Fitzpatrick -- Patrick 22 Fitzpatrick of Mississippi State, and he is attached 23 to the Geo Research Center at Stennis Space Center. 24 He has performed one comprehensive meteorology study 25 of an area, specific area in Bay St. Louis, but also</p>
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<p>1 Katrina. Other than the organizations we just 2 named, what other sources have you relied on that 3 you think are reliable sources of meteorological 4 data in preparing Hurricane Katrina reports?</p> <p>5 A. One that jumps out in my mind immediately 6 besides those are, number one, the readings taken at 7 the office of -- what's it called -- the Pascagoula, 8 Jackson County Emergency Management Office, EMO 9 offices. They had two anemometers mounted on top of 10 a three story building. They regularly reported 11 that by telephones to the New Orleans Weather 12 Service. New Orleans received that from them up 13 until telephone service went out between Pascagoula 14 and New Orleans and recorded that in -- that's in 15 Appendix D of my report -- some of the initial 16 readings, like the 125 mile per hour winds. This 17 was before the power went out and long before the 18 highest of the winds occurred. They then -- 19 Mr. George Sholl for one and his boss, Mr. Loper, 20 observed those gauges after that at 137 and 140 21 miles per hour. These are, you know, public 22 officials who were doing their job in the Emergency 23 Management Office of collecting that data and 24 disseminating it to the public and the Weather 25 Service. That was one of the many stations that --</p>	<p>1 in general on the coast of Mississippi. There is an 2 organization called IPET, I-P-E-T. It's the acronym 3 for Inner Agency something Professional Study Group 4 or whatever. What it is or was was a group of 5 scientists, engineers, academics and others that 6 were assembled by the U.S. Army Corp of Engineers to 7 do a complete study of Hurricane Katrina. Their 8 results, I've depended on before, and they match Mr. 9 Calaci's work, and I'm not sure I even mentioned 10 them or Dr. Fitzpatrick in my report, but those 11 are -- you were asking me what other sources I had 12 besides NOAA and the Weather Service, so those would 13 be the most of them.</p> <p>14 Q. You're aware of the anemometer readings 15 from the Northrup Grummons Ingalls Shipyard, 16 correct?</p> <p>17 A. Yes, I am.</p> <p>18 Q. Okay. And have you reviewed those 19 readings? Have they informed -- well, have you 20 reviewed those readings?</p> <p>21 A. I have read AccuWeather's reports where 22 they have included those in the -- their modeling 23 work, and I have seen the readings, yes.</p> <p>24 Q. You've seen the actual readings from the 25 anemometer at Ingalls?</p>

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<p>1 A. I've seen the reportings. I haven't seen 2 the actual readings, no.</p> <p>3 Q. And you're also familiar with the readings 4 at the Stennis that I guess were prepared by Texas 5 Tech?</p> <p>6 A. Yes, a research project or whatever you 7 call it out at the airfield there where they tried 8 to obtain some data on Hurricane Katrina. I am 9 familiar with -- with their readings and what they 10 did out there.</p> <p>11 Q. Okay. And you -- you understand those are 12 the only two anemometers along the Mississippi Gulf 13 Coast that continuously reported throughout 14 Hurricane Katrina? Are you -- do you have that 15 understanding?</p> <p>16 A. Yes I, do have that understanding.</p> <p>17 Q. Okay. You've included a portion in your 18 report for the Politz case on estimating 19 reconstruction costs. Do you have any formal 20 degrees in cost estimating?</p> <p>21 A. Well, as, again, you can say that -- 22 answer that the same way I answered you about 23 meteorology. It is a part and parcel of every civil 24 engineering course or structural engineering course. 25 And as a matter of fact, you do a cost estimate on</p>	<p>1 role as an engineer, have you ever been retained to 2 construct a house or a residential house?</p> <p>3 A. Yes. In the early part of my career, and 4 when I left Michael Baker in 1969, my partner who 5 was a man named Mal, M-A-L, Sims, he owned a 6 franchise called Allied Building Systems. That 7 franchise did remodelings and new -- new structures. 8 I designed and supervised the construction of -- of 9 many residential either add-ons or renovations or -- 10 I can't remember a brand-new structure from the 11 ground up because his primary focus of the franchise 12 he had was for remodeling and additions to houses. 13 But we did that a couple of years. It was 14 getting -- while we was getting our company off -- 15 off the ground.</p> <p>16 Q. The last time you did that work would have 17 been 1969, about in that time frame?</p> <p>18 A. Let's say '70, '71, maybe, yeah, we was 19 actually designing buildings.</p> <p>20 Q. So since -- so it's fair to say at the 21 time of Hurricane Katrina, you hadn't worked on 22 designing and building residential homes for over 20 23 years; is that accurate? Actually over 30 years.</p> <p>24 A. Well, I had inspected quite a number of 25 them that had been damaged by one way or the other</p>
Page 59	Page 61
<p>1 each and every project you do. Now, I have done so 2 for 45 years of my career, and yes, I am an expert 3 in estimating costs.</p> <p>4 Q. Have you taken any courses in cost 5 estimating?</p> <p>6 A. Yes.</p> <p>7 Q. And what kinds of courses have you taken 8 in cost estimating?</p> <p>9 A. They were labeled, the best I remember, 10 construction cost estimates at Georgia Tech.</p> <p>11 Q. So that was part of your earning your 12 bachelors degree?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever yourself worked on 15 constructing a residential structure?</p> <p>16 A. You know, I -- I've enclosed a garage one 17 time, a carport into a den one time by myself. No, 18 to answer your question, I've never worked as a 19 carpenter. I -- so when I -- I've watched a lot of 20 it done, and I've supervised a lot of construction, 21 usually heavier construction than that.</p> <p>22 Q. Yeah, maybe my question was a bad 23 question. I -- I wasn't asking you if you were -- 24 if you worked as a carpenter or a handyman or 25 anything like that. I guess what I meant is in your</p>	<p>1 and determined causations of the damage.</p> <p>2 Q. That wasn't my question. I'm sorry maybe 3 if I was vague. Let me -- let me rephrase my 4 question. In terms of being retained to design and 5 build a residential structure, at the time of 6 Hurricane Katrina in 2005, you hadn't done that kind 7 of work for over 30 years; is that fair to say?</p> <p>8 A. If you limit it to homes, that's correct. 9 I have done condominiums and hotels.</p> <p>10 Q. Yeah. In the reports that you prepared -- 11 strike that question. Have you included cost 12 estimates to reconstruct residences in all of the 13 reports you've prepared for Hurricane Katrina 14 homeowners?</p> <p>15 A. Not all of them.</p> <p>16 Q. I guess why not all of them?</p> <p>17 A. Natural question. When -- when the owner 18 and/or the attorneys had the cost of refurbishment 19 or repairing the structure and the hard numbers, and 20 they would tell me there would be no point doing a 21 cost estimate of reconstruction or repairing the 22 structures, and that's happened on a dozen occasions 23 or more.</p> <p>24 Q. In those dozen occasions or more, they had 25 gotten, as you said, hard numbers from contractors;</p>

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17 (Pages 62 to 65)

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<p>1 is that correct?</p> <p>2 A. Or from the owners who paid the bills on</p> <p>3 having it done.</p> <p>4 Q. And in those instances, because they had</p> <p>5 those accurate numbers, they didn't need an estimate</p> <p>6 from you as to reconstruction, correct?</p> <p>7 A. That is correct.</p> <p>8 Q. And in fact, in preparing the estimates</p> <p>9 that you have done for reconstructing homes that</p> <p>10 were destroyed during Katrina, you've relied on</p> <p>11 information from contractors on the Mississippi Gulf</p> <p>12 Coast, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. And those would be the people who</p> <p>15 would be more qualified than you to address the cost</p> <p>16 of building materials on the Gulf Coast, right, it's</p> <p>17 fair to say?</p> <p>18 A. That is fair, yes.</p> <p>19 Q. You -- and professionally, you don't hold</p> <p>20 yourself out as an expert on cost of reconstruction</p> <p>21 of residential homes on the Mississippi Gulf Coast?</p> <p>22 A. Well, I just told you that I would -- that</p> <p>23 I do because I've studied it, and I know what -- how</p> <p>24 to do estimates, and I've done many over the years.</p> <p>25 I did do investigation of what the local builders</p>	<p>1 actual costs that have been experienced since</p> <p>2 Katrina.</p> <p>3 Q. And in this report, the Politz report, you</p> <p>4 rely on, and I think in other reports that I've</p> <p>5 seen, you rely on one builder named Carl Hamilton;</p> <p>6 is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And -- and you prepared a report in</p> <p>9 the Ross versus Metropolitan Property & Casualty</p> <p>10 case as well. Do you recall that?</p> <p>11 A. Yes.</p> <p>12 Q. And in that case, you, in addition to --</p> <p>13 or I guess maybe supplementing your RS Means</p> <p>14 estimate, you included information from Mr. Carl</p> <p>15 Hamilton in that report as well, right?</p> <p>16 A. I can't remember when -- whether I did or</p> <p>17 not in the Ross case. I probably did.</p> <p>18 Q. And are you aware that in the Ross case</p> <p>19 that Judge Senter here in the Southern District for</p> <p>20 Mississippi has excluded your estimates on that case</p> <p>21 based on your information from Mr. Builder as not</p> <p>22 reliable expert testimony? Did you know that?</p> <p>23 A. We haven't gone to trial in the Ross case</p> <p>24 yet. If there's been a motion made to that effect,</p> <p>25 it may be. I -- I haven't been informed.</p>
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<p>1 were charging here in the Mississippi coast in the</p> <p>2 post-Katrina time frame, and received letters and --</p> <p>3 and documentation from those contractors who told me</p> <p>4 what the costs were, and I have applied those to</p> <p>5 this structure as well as others.</p> <p>6 Q. Have you ever prepared an estimate, a</p> <p>7 reconstruction cost estimate, for a homeowner</p> <p>8 plaintiff for one of these reports where the</p> <p>9 plaintiff and his or her attorney said we don't need</p> <p>10 that estimate?</p> <p>11 A. Where I prepared one, and they didn't want</p> <p>12 to use it? I have prepared one -- some that they</p> <p>13 did not use. For instance, the one trial before a</p> <p>14 jury I went before in the Webster case, Webster</p> <p>15 versus USAA, as a matter of fact, the -- there was a</p> <p>16 stipulation by the parties as -- as the agreed</p> <p>17 amount of the reconstruction cost, so there were no</p> <p>18 questions, and I didn't make no presentation of my</p> <p>19 cost estimate on that job.</p> <p>20 Q. In fact, you are aware that your cost</p> <p>21 estimate is based on the RS Means approach that</p> <p>22 you've used previously were excluded in at least one</p> <p>23 case, one Hurricane Katrina case, correct?</p> <p>24 A. And that is the reason I changed to the</p> <p>25 making a survey of the local builders and using the</p>	<p>1 Q. You haven't been informed of that?</p> <p>2 A. No.</p> <p>3 Q. I'll represent to you, you may be hearing</p> <p>4 that, but you weren't aware of that coming in today,</p> <p>5 as we sit here today, you haven't heard?</p> <p>6 A. There's been some mention of it, but I</p> <p>7 haven't seen it, no.</p> <p>8 Q. And that's the same individual,</p> <p>9 Mr. Hamilton, that you relied on his information in</p> <p>10 this report as well, correct?</p> <p>11 A. Well, he wasn't the only one, but he's the</p> <p>12 one I was reporting and I used.</p> <p>13 Q. Have you ever prepared a publication</p> <p>14 dealing with meteorological aspects of hurricanes?</p> <p>15 A. No, other than my reports always include</p> <p>16 the history of the storm and the sequence of the</p> <p>17 storm.</p> <p>18 Q. And other than litigation expert reports,</p> <p>19 the answer is no?</p> <p>20 A. The answer is no.</p> <p>21 Q. Have you ever prepared a publication</p> <p>22 dealing with the effects of hurricanes on</p> <p>23 structures, again, other than your litigation</p> <p>24 reports?</p> <p>25 A. Well, I've done literally thousands of</p>

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18 (Pages 66 to 69)

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<p>1 reports, obviously. Some were used -- were specific 2 for litigation, others were just for investigative 3 purposes. 4 Q. And by publication, I mean something 5 that's -- well, for instance, have you ever 6 published in a peer-reviewed journal any 7 publications about the effects of hurricanes on 8 structures? 9 A. No. 10 Q. Have you ever published in a peer-reviewed 11 journal, a publication dealing with determining 12 whether damage to a structure was caused by wind 13 versus water? 14 A. No. 15 Q. And have you ever held any teaching 16 position at any college or university related to 17 those subjects? 18 A. Related specifically to hurricane -- 19 Q. Yeah, the effects of hurricanes on 20 structures. 21 A. No. 22 Q. Have you ever studied how long it takes 23 winds of a certain speed to destroy a structure? 24 A. Yes. 25 Q. And what kind of study on that topic have</p>	<p>1 Q. As with your CV, I'd ask you to provide 2 counsel for plaintiffs -- 3 A. Okay. 4 Q. -- a current version of your expert 5 witness testimony list. 6 A. I will do so, but I may tell you the only 7 thing that changes on it is on the last page, I 8 think it is, the next to the last page. All of the 9 depositions that I've given, they would just be 10 added more to item 26. 11 Q. That would be adding Hurricane Katrina 12 depositions you've given -- 13 A. That's correct. 14 Q. -- in the past year? 15 A. And under item 27, different -- more 16 attorneys that I've worked with, those two items 17 would be supplemented in this updated expert witness 18 list. And I think it was updated as of August 19 something, I think, and I can give you a copy of 20 that. 21 Q. And on your list of expert testimony, you 22 have, the second one, I guess, is Missouri Office of 23 the Public Counsel? 24 A. Yes. 25 Q. And that was studies, investigations,</p>
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<p>1 you done? Can you describe it? 2 A. 45 years of calculations, observations, 3 inspecting damage that had occurred, different winds 4 and different mechanisms of destruction. 5 Q. And other than -- again, other than your 6 litigation reports, have you ever published anything 7 in a peer-reviewed journal discussing or addressing 8 how long it takes winds of a certain speed to 9 destroy a structure? 10 A. No, I haven't published such a document. 11 (Exhibit 157 marked for identification.) 12 Q. (By Mr. Gilmore) Let me show you Defense 13 Exhibit 157. Do you recognize this document, Mr. 14 Biddy? 15 A. Yes, I do. 16 Q. This is a list of expert witness testimony 17 you've given as a forensic engineer? 18 A. That's correct. 19 Q. And I don't believe it's dated. Is the 20 document we're looking at current through today's 21 date? 22 A. No, it would be -- I have a more current 23 version of the same thing. I think it would be just 24 like my CV would be, first of the year. I usually 25 try to update it once a year.</p>	<p>1 reports and expert witnesses for a \$76 million case? 2 A. Correct. 3 Q. That was before the Missouri Public 4 Service Commission? 5 A. That is correct. 6 Q. In that case, you had testified that a 7 decision to build a new plant was not prudent, 8 correct? 9 A. That is correct. 10 Q. Okay. And you also presented testimony 11 about how much it would cost to build that new 12 plant, right? 13 A. Had they built it at the old location, 14 yes. 15 Q. I'll hand you Defense Exhibit 159, which 16 you've probably seen before. 17 (Exhibit 159 marked for identification.) 18 Q. (By Mr. Gilmore) And you recognize this 19 as the report and order from that proceeding before 20 the Missouri Public Service Commission? 21 A. I do. 22 Q. On the case that you provided expert 23 testimony for, correct? 24 A. That's right. 25 Q. And if you turn to page 36 of that report,</p>

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19 (Pages 70 to 73)

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<p>1 the page numbers are in the top right corner.</p> <p>2 A. 36?</p> <p>3 Q. Uh-huh.</p> <p>4 A. Okay. All right.</p> <p>5 Q. And at the bottom of that page, the report</p> <p>6 reads, "Additionally, the Commission notes that Mr.</p> <p>7 Biddy was shown on cross-examination to be</p> <p>8 inexperienced in the design of surface water</p> <p>9 treatment plants. Both Mr. Biddy and Dr. Morris</p> <p>10 were shown on cross-examination to have</p> <p>11 misunderstood planning and financial documents</p> <p>12 obtained from the company through discovery. Both</p> <p>13 Mr. Biddy and Dr. Morris relied on very rough and</p> <p>14 preliminary cost figures which they used as a basis</p> <p>15 to criticize the far more detailed estimates</p> <p>16 developed by MAWC. Under all the circumstances, the</p> <p>17 Commission finds the cost estimates of Mr. Biddy and</p> <p>18 Dr. Morris to not be credible." Did I read all of</p> <p>19 that correctly, Mr. Biddy?</p> <p>20 A. You did.</p> <p>21 Q. And that's consistent with your</p> <p>22 recollection of the Missouri Public Service</p> <p>23 Commission's findings regarding your expert</p> <p>24 testimony in this case, right?</p> <p>25 A. Yes, they sided with the water company</p>	<p>1 Q. Are all of the lawsuits in which you've</p> <p>2 been a plaintiff been professional -- professionally</p> <p>3 related --</p> <p>4 A. Yes, they have.</p> <p>5 Q. -- to your work as an engineer?</p> <p>6 A. Right.</p> <p>7 Q. And you said collection lawsuits. Have</p> <p>8 they all involved trying to get a client to pay a</p> <p>9 bill?</p> <p>10 A. That's correct.</p> <p>11 Q. None of those cases in which you've been a</p> <p>12 plaintiff have dealt with issues other than debt</p> <p>13 collection?</p> <p>14 A. That's correct.</p> <p>15 Q. Have you ever been charged with a crime?</p> <p>16 A. No.</p> <p>17 Q. So you've never been convicted of a crime?</p> <p>18 A. No. If I haven't been charged, I</p> <p>19 obviously haven't been convicted.</p> <p>20 Q. Have you been informed whether Nationwide</p> <p>21 has moved to exclude your testimony on Daubert</p> <p>22 grounds in any cases in which you've testified</p> <p>23 against Nationwide?</p> <p>24 A. I don't know. I don't know.</p> <p>25 Q. As you sit here today -- well, let me ask</p>
Page 71	Page 73
<p>1 rather than the Office of Public Counsel.</p> <p>2 Q. Mr. Biddy, have you ever been sanctioned</p> <p>3 or reprimanded by any court? I know we talked about</p> <p>4 the licensing -- the two licensing issues in your</p> <p>5 past, but has any court ever sanctioned or</p> <p>6 reprimanded you in any way?</p> <p>7 A. In what way? What are you talking about?</p> <p>8 Q. Well, in any way. Are you aware of ever</p> <p>9 being sanctioned by a judge in a court --</p> <p>10 A. No.</p> <p>11 Q. -- for any reason?</p> <p>12 A. No.</p> <p>13 Q. Have you ever been a defendant in a</p> <p>14 lawsuit?</p> <p>15 A. No.</p> <p>16 Q. Either professionally or personally?</p> <p>17 A. No.</p> <p>18 Q. Have you ever been a plaintiff in a</p> <p>19 lawsuit?</p> <p>20 A. Yes.</p> <p>21 Q. Can you tell me about that? First of all,</p> <p>22 how many times have you been a plaintiff in a</p> <p>23 lawsuit?</p> <p>24 A. Half a dozen times, collection lawsuits in</p> <p>25 business.</p>	<p>1 you this: Has anyone ever shown you any -- do you</p> <p>2 know what a Daubert motion is?</p> <p>3 A. Yes, of course, I went through one.</p> <p>4 Q. And so I guess my question is have you</p> <p>5 been shown any Daubert motions filed against you by</p> <p>6 Nationwide's counsel in any of the cases that you</p> <p>7 have presented expert testimony in?</p> <p>8 A. I understood that there has been</p> <p>9 objections filed, but -- but the judge didn't go</p> <p>10 along with it, or our case was settled before it</p> <p>11 could be heard or whatever, but I only went through</p> <p>12 one actual Daubert hearing.</p> <p>13 Q. And in terms of the -- you haven't been</p> <p>14 provided or reviewed copies of any Daubert motions</p> <p>15 filed by Nationwide?</p> <p>16 A. By Nationwide, no.</p> <p>17 Q. Okay. Have you had any of them described</p> <p>18 to you by the counsel for any of the plaintiffs that</p> <p>19 you worked on in the Nationwide cases?</p> <p>20 A. I think everybody objects to my testimony</p> <p>21 on every -- on each and every case, and I can tell</p> <p>22 you that when I was in the courtroom with Judge</p> <p>23 Minor, he said -- in answer to their objection, he</p> <p>24 said, "This man is a forensic engineer, and I'm</p> <p>25 going to let him testify to everything he relied on</p>

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20 (Pages 74 to 77)

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<p>1 in forming his opinions, overruled," and that was 2 the extent of his ruling, and then, of course, long 3 and short of their objection. 4 Q. So it's fair to say you haven't felt the 5 need to revise any opinions that you ever reached in 6 this or any other cases in response to challenges to 7 your expert testimony; is that correct? 8 A. Well -- well, with the exception of what 9 we discussed about the cost estimates. Once Judge 10 Ozerden ruled that the RS Means National 11 Construction Standard estimate for the residential 12 structures was not accurate enough to present in 13 court, the numbers that I was using as a basis for 14 my cost estimates up until '07 sometime, I guess, 15 when he ruled that, that's when I changed my 16 methodology and did a survey of the local builders 17 to come up with actual costs that are being charged 18 on the Mississippi Gulf Coast at this time. 19 Q. Did you have any prior dealings with 20 Mr. or Mrs. Politz prior to your engagement on this 21 case? 22 A. No. 23 Q. Did you know who they were before -- 24 A. No. 25 Q. -- you started working on this case?</p>	<p>1 believe I've ever spoken with Mrs. Politz. 2 Sometimes I do call and talk to the client if 3 there's something specific that I need to know, but 4 I have no notes of having called her and talked to 5 her about this. Everything I did on the job is what 6 I gleaned from the inspections and data I furnished 7 you copies of, or is in my report. 8 Q. So as you sit here today, you don't recall 9 having spoken with Mr. or Mrs. Politz? 10 A. No. 11 Q. Do you recall whether you spoke with any 12 neighbor who lived near Mr. and Mrs. Politz? 13 A. I did not. 14 Q. And you didn't interview any eyewitnesses 15 to the damage in the Politz -- to the Politz 16 residence, correct? 17 A. Not to their residence, no. 18 Q. How about in the immediate vicinity, that 19 neighborhood? 20 A. I have eyeball witnesses, eyewitnesses 21 from Pascagoula all the way to Bay St. Louis, 22 various and sundry eyewitnesses of what they saw and 23 of the hurricane, but none right nearby there in 24 that area. 25 Q. All right. Mr. Biddy, I'm going to --</p>
Page 75	Page 77
<p>1 A. No. 2 Q. I'm going to show you Defense Exhibit 146. 3 (Exhibit 146 marked for identification.) 4 Q. (By Mr. Gilmore) This is a document that 5 you provided to us in response to the subpoena 6 Nationwide issued to you in this case, and do you 7 recognize this document? 8 A. Yes, I do. 9 Q. Can you tell us what it is? 10 A. This is a letter from Mr. Kris Carter of 11 the Denham firm to me requesting the investigation 12 and study and report for the Politz home. 13 Q. I know we spoke previously about your 14 telephone conversations with Ms. Politz and with 15 Mr. Carter. Other than this letter, do you have any 16 other written correspondence between you and 17 Mr. Carter? 18 A. Only the one I've given you, and, of 19 course, that would include the invoice for the work 20 as well and the letter of transmittal. 21 Q. Fair enough. That's -- that's -- other 22 than those documents and this engagement letter -- 23 A. That's it. 24 Q. Okay. Okay. I'm going to hand you 147. 25 A. Can I correct one thing you said? I don't</p>	<p>1 let's look at your report. Again, this is marked as 2 Defense Exhibit 42. It's your report as Bates 3 numbered and produced by counsel for plaintiff for 4 Nationwide, and you looked at this at the beginning 5 of your deposition. Is this your final report in 6 this case? 7 A. It is. 8 Q. As we sit here today, do you expect to 9 submit any supplemental reports? 10 A. Only if asked to, but I have not been 11 asked to. 12 Q. And I think you testified earlier you have 13 not been asked to provide any rebuttal reports to 14 Nationwide's experts in this case, correct? 15 A. I have not been asked to. 16 Q. And in fact, you haven't even reviewed 17 them? 18 A. That's correct. 19 Q. You are -- you were thorough in preparing 20 this report, correct? 21 A. Yes, I was. 22 Q. It's important to be thorough, right? 23 A. It certainly is. 24 Q. It's important to you to know the facts of 25 each specific case, right?</p>

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21 (Pages 78 to 81)

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<p>1 A. Yes, it is.</p> <p>2 Q. Sitting here, are there any errors that</p> <p>3 you know of in your report that you would like to</p> <p>4 correct?</p> <p>5 A. No.</p> <p>6 Q. Is this the only report that you have</p> <p>7 prepared for submission in the Politz matter?</p> <p>8 A. Yes.</p> <p>9 Q. Did you prepare any earlier drafts of this</p> <p>10 report that you -- well, did you prepare any earlier</p> <p>11 drafts of this report?</p> <p>12 A. No. Only the one that was proofed in my</p> <p>13 office, of course.</p> <p>14 Q. You never transmitted an earlier draft of</p> <p>15 this report to either the plaintiffs --</p> <p>16 A. Nobody.</p> <p>17 Q. -- or Denham Law Firm?</p> <p>18 A. No.</p> <p>19 Q. When you say that, I guess, the first</p> <p>20 draft was proofed in your office, who -- who did</p> <p>21 that proofing?</p> <p>22 A. My wife is a professional proofreader.</p> <p>23 Q. Lucky you.</p> <p>24 A. She worked at it for years, and I simply</p> <p>25 handed her the draft, and she finds every misspelled</p>	<p>1 Q. Now, you know this and the other Hurricane</p> <p>2 Katrina cases you worked on are insurance disputes.</p> <p>3 Do you have any training or education in insurance</p> <p>4 practices?</p> <p>5 A. No.</p> <p>6 Q. So you don't intend to offer any testimony</p> <p>7 regarding insurance coverage?</p> <p>8 A. No.</p> <p>9 Q. Or regarding the handling and adjustment</p> <p>10 of the Politz claim, correct?</p> <p>11 A. Only causation of the damages.</p> <p>12 Q. Are there any calculations or analysis or</p> <p>13 data not contained in your report that you are</p> <p>14 relying on in reaching your opinions?</p> <p>15 A. I think we've discussed those already.</p> <p>16 Q. Okay. Other than what we've already</p> <p>17 discussed?</p> <p>18 A. Yes.</p> <p>19 Q. There's been --</p> <p>20 A. There is none, that's correct.</p> <p>21 Q. Okay.</p> <p>22 A. There are none.</p> <p>23 Q. Are none. You don't recall -- you don't</p> <p>24 believe that you have interviewed Mr. and</p> <p>25 Mrs. Politz, right?</p>
Page 79	Page 81
<p>1 word and every missing comma or whatever and gives</p> <p>2 it back to me. This is all on my computer, so it's</p> <p>3 a matter of easy repairs and off to the print shop.</p> <p>4 Excuse me. Can we take another break?</p> <p>5 Q. Sure.</p> <p>6 A. It's about 11:00 o'clock.</p> <p>7 VIDEOGRAPHER: Off the record at 10:59.</p> <p>8 End of tape two.</p> <p>9 (Off the record.)</p> <p>10 VIDEOGRAPHER: Beginning tape three. On</p> <p>11 the record at 11:09.</p> <p>12 Q. (By Mr. Gilmore) Mr. Bidby, it's fair to</p> <p>13 say that your report, Defense Exhibit 42, states the</p> <p>14 conclusions that you intend to provide at trial in</p> <p>15 the Politz case if it goes to trial, correct?</p> <p>16 A. That is correct.</p> <p>17 Q. When you prepared it, you intended to be</p> <p>18 accurate and thorough in stating your opinions?</p> <p>19 A. Yes.</p> <p>20 Q. And the basis and reasons for your</p> <p>21 opinions?</p> <p>22 A. Yes.</p> <p>23 Q. As well as the materials you relied upon,</p> <p>24 correct?</p> <p>25 A. Correct.</p>	<p>1 A. I have not to my remembrance.</p> <p>2 Q. Okay. And I think we went over this. You</p> <p>3 haven't spoken with any neighbors or witnesses in</p> <p>4 the area, correct?</p> <p>5 A. That's correct.</p> <p>6 Q. You reviewed -- have you reviewed any</p> <p>7 photographs other than those that are in your report</p> <p>8 of the Politz residence both before and after</p> <p>9 Hurricane Katrina?</p> <p>10 A. No.</p> <p>11 Q. Okay. Have you seen any photographs --</p> <p>12 well, any aerial imagery, like satellites, for</p> <p>13 instance, of the Politz house and the surrounding</p> <p>14 vicinity after Hurricane Katrina?</p> <p>15 A. I have seen aerial photographs before and</p> <p>16 after Katrina for the entire Mississippi coast. I</p> <p>17 did not specifically go to those to evaluate the</p> <p>18 Politz residence location. It was not necessary.</p> <p>19 Q. And when you say it's not necessary, is</p> <p>20 there -- is it your view that there is nothing of</p> <p>21 significance that you can see in an aerial</p> <p>22 photograph of the Politz neighborhood and vicinity</p> <p>23 after Hurricane Katrina?</p> <p>24 A. No, that's not my statement at all because</p> <p>25 Mr. Calaci, of course, in his report presents some</p>

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22 (Pages 82 to 85)

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<p>1 aerial photographs that show downbursts occurring in 2 the area. My proof of the causation was -- did not 3 rely on aerial photographs to -- for any reason. 4 Q. Do you think that aerial photographs 5 provide any information as to causation? 6 A. Sometimes, sometimes. 7 Q. In what instances would they? 8 A. Well, in this instance, Mr. Calaci 9 testifies that a circular pattern of destruction 10 around the location of the Politz house indicates a 11 downburst there, which is a huge straight down winds 12 that spreads out in all directions and destroys. 13 It's up to 150 miles or more an hour. However, I 14 didn't go to those extremes in my analysis. As I 15 discuss in my report, I use a conservative value of 16 135 miles per hour, just dropped the maximum back. 17 Q. And I think I understand that you think 18 you used a conservative wind gust figure? 19 A. That's correct. 20 Q. But in terms of the visual evidence at the 21 Politz property and neighbor -- or vicinity after 22 Hurricane Katrina, did you see any photographs? 23 Have you, yourself, seen any photographs that show 24 these circular pattern damage that Mr. Calaci 25 states?</p>	<p>1 waterborne debris on the former location of the 2 house and et cetera. 3 Q. And it's fair to say that you can't rely 4 on the visual evidence after the storm surge -- 5 after the storm surge to determine -- let me strike 6 that. Let me rephrase my question. It's fair to 7 say that you couldn't rely on visual evidence alone 8 to determine the nature or extent of wind damage 9 from visual evidence after the storm surge, correct, 10 because of that masking effect you were talking 11 about? 12 A. You do have to know the history of the 13 storm, the sequence of the storm, the sequence of 14 the winds and the water, yes, combine that with the 15 visual evidence which was very apparent in this case 16 to determine causation. 17 Q. Have you actually spoken with Mr. Calaci 18 about his opinions or testimony in this case? 19 A. Not in this case. On many cases, I have, 20 but not on this one. 21 Q. When was the last time you spoke with Mr. 22 Calaci? 23 A. Within the last two weeks. I was with him 24 at a law office in Biloxi. He mentioned that he was 25 going to have the deposition -- his deposition in</p>
Page 83	Page 85
<p>1 A. Oh, I only read his report to that effect. 2 Q. And you would agree that putting aside the 3 timing of wind versus water, the conditions at the 4 Politz residence, storm surge washed everything in 5 the Politz property and immediate vicinity inland to 6 the extent of the debris line, correct? 7 A. That you can't put away, number one, the 8 timing, but number two, because, obviously, the wind 9 is going to take whatever it destroys away, too, so, 10 you know, you can't say that the water came in and 11 washed away the house and so on afterwards. 12 Q. Well, that's -- that's a fair -- and my 13 question was not precise. Would you agree that even 14 if there had been a microburst that caused circular 15 pattern of damage that Mr. Calaci seems to think 16 there was, the storm surge would have washed that 17 debris and obscured that -- whatever evidence there 18 was of wind? 19 A. That is correct, the -- 20 Q. And I think you've described that in your 21 report. 22 A. Yes, it's famously called masking, 23 M-A-S-K-I-N-G, the damage to the wind, because, 24 obviously, the waters came in to a high level, you 25 know, three hours later, and you see a lot of</p>	<p>1 this case, I believe, Friday of that week, but we 2 didn't discuss it. 3 Q. Okay. You haven't talked with him about 4 that deposition in this case? 5 A. No, I have not. 6 Q. Have you talked with anyone about Mr. 7 Calaci's deposition in this case? 8 A. I have not. 9 Q. You haven't seen the transcript of that 10 deposition, have you? 11 A. I have not. 12 Q. Let me hand you Defense Exhibit 147. 13 (Exhibit 147 marked for identification.) 14 Q. (By Mr. Gilmore) And I will represent to 15 you these are documents that you produced to us in 16 response to the subpoena. Can you tell us what 17 these two pages of handwritten notes are? 18 A. These are field notes of the inspection 19 that was performed at the house. 20 Q. And it's two pages. It's in different 21 handwriting, correct? 22 A. Yeah, it is. 23 Q. The first page, I believe is that your 24 handwriting? I've seen your handwriting before in 25 your report. Is this yours?</p>

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23 (Pages 86 to 89)

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<p>1 A. I can't remember. It looks like it, 2 doesn't it?</p> <p>3 Q. It does, but I was hoping you could 4 confirm it, but that's fine.</p> <p>5 A. I think it is.</p> <p>6 Q. Okay.</p> <p>7 A. And the second page is my inspector, 8 Rodney Shreve's.</p> <p>9 Q. Okay. So I'm just kind of curious, if you 10 look at the -- there are several line items, and we 11 can discuss them, but the first -- the notes on -- 12 that Mr. Shreve wrote on the second page of this 13 document, a lot of them, you have just rewritten 14 verbatim or almost verbatim on yours.</p> <p>15 A. Yeah.</p> <p>16 Q. What was the reason for that, for you 17 rewriting notes?</p> <p>18 A. We were both taking notes out on the job, 19 and I was telling him what to look for and so on, 20 so, you know, it's not unusual that we have the same 21 notes essentially.</p> <p>22 Q. So did you review his notes first and then 23 write yours?</p> <p>24 A. No, I -- of course, we did them together 25 some because we were right there together, but I</p>	<p>1 Bay St. Louis prepared it in 1999 showing the house 2 location on the property and in the curve of the 3 property, and I had the address, of course, and it 4 is problem sometimes in finding the exact location 5 of the house, but in this case, we had a survey. 6 And you see -- on the left-hand side of that, you 7 will see the adjacent street, Russell Lane, and the 8 dimensions from it to the house and the two lots 9 that face on to Russell Avenue with this lot that 10 occupied the Politz house and another one on the 11 curve of Winter Lane. And of course, I had 12 generalized maps, Google maps, which are never very 13 accurate, but sometimes they will show you pretty 14 close to it.</p> <p>15 In my Appendix H of my report, there's 16 also -- as I remember it, a fire hydrant in the 17 front yard of the Politz property, and it shows up 18 on some of their pictures so -- that they took of 19 the after storm destruction, and we verified that as 20 well. So you do have to go through some hoops to 21 make sure you're at the right location when 22 everything is gone and all the adjacent houses were 23 gone.</p> <p>24 Q. If you turn to your report, Defense 25 Exhibit 42 at Politz-317.</p>
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<p>1 wanted him to write them down as well, and if he saw 2 anything that I didn't, I wanted to -- I looked over 3 his to see, you know, if there's anything he -- he 4 saw that I didn't see because he was up walking 5 around. I was sitting in a chair on the slab with a 6 note pad in my lap and, of course, if he had seen 7 something that was startling -- I mean, it was 8 different, for instance, those measurements of how 9 high the slab was off the ground, above the ground, 10 I had him go around with a tape measure and measure 11 those and call them out to me so...</p> <p>12 Q. How did you determine where the property 13 was? You know, I -- I understand it's -- 14 particularly where there's whole neighborhoods that 15 have been destroyed, sometimes it's difficult to 16 identify --</p> <p>17 A. It is.</p> <p>18 Q. -- property; is that correct?</p> <p>19 A. It is.</p> <p>20 Q. What did you do to confirm you actually 21 were at the right site?</p> <p>22 A. Well, I had a survey furnished to me by 23 the attorneys on behalf of Mrs. Politz. That's the 24 first page of Appendix D, which Bates Politz-390 is 25 the survey performed by a local land surveyor from</p>	<p>1 A. 317?</p> <p>2 Q. Uh-huh.</p> <p>3 A. All right.</p> <p>4 Q. You visited the site June 7th, 2008, 5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. That's almost three years after Hurricane 8 Katrina, right?</p> <p>9 A. True.</p> <p>10 Q. And you didn't go there with either Mr. or 11 Mrs. Politz, just with you and Mr. Shreve?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. In your report, you write, "The 14 site had been cleaned up of all house debris except 15 for the remaining slab and some base plates, anchor 16 bolts and metal straps from the slab to the base 17 plates."</p> <p>18 A. Correct.</p> <p>19 Q. So the visual evidence that you were 20 seeing at your site inspection was different than 21 immediately after Hurricane Katrina, obviously, 22 correct?</p> <p>23 A. Yes, and for that, I had to rely on 24 pictures that were furnished to me by the Politzes.</p> <p>25 Q. And other than the pictures that Mr. and</p>

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24 (Pages 90 to 93)

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<p>1 Mrs. Politz and their attorneys gave you, did you 2 have any other visual evidence of the condition of 3 the Politz property right after Hurricane Katrina? 4 A. No. Now, in general, I did because I've 5 been all over that area for three years up and down 6 the coast, but not specifically that site, no. 7 Q. And do you know if you've ever even driven 8 in their exact neighborhood before? 9 A. Yeah, I did. I did a -- a Kangaroo store. 10 There's one within a block, I think it is, on 11 Highway 90 of this area, and I went into the back 12 area that's behind the Kangaroo store there in '06 13 sometime when I did a series of those Kangaroo 14 stores along the coastline. 15 Q. You don't -- you don't remember ever 16 seeing the Politz property before your trip there in 17 June 2008, right? 18 A. No, not -- I didn't examine it at all. 19 Q. Okay. And you mentioned that several of 20 the base plates and metal straps remained? 21 A. That's correct. 22 Q. Were those straps hurricane straps? 23 A. They were the first hurricane straps that 24 were put in structures on the Mississippi coast. 25 They appeared to be on alternate stud lines, every</p>	<p>1 portions of the stud left where they were broken in 2 a bending manner, so the attachment failures, I 3 think was the primary mechanism of destruction, but 4 there was some bending failures of studs, too, as 5 you can see in those pictures. And I think those 6 attachment failures occurred first at the roof line 7 to the top plate of the top stud, and then at the 8 bottom, some of them at the bottom plate of the 9 bottom stud, and the entire building was blown away 10 with the exception of what you can see in the after 11 storm pictures of some of the broken studs. 12 What else was on that slab and left for 13 the water to then destroy, I don't know, and I'm not 14 clairvoyant, I couldn't tell you. Obviously 15 something, you know, just wiped everything clean. 16 It's always something left, you know, but -- 17 Q. The attachment failures that you just 18 referenced, putting aside the -- again, putting 19 aside the sequence, and we will discuss the sequence 20 of wind versus water, it's fair to say that storm 21 surge can cause the same attachment failures that 22 you saw on this property, correct? 23 A. Storm surges would have caused attachment 24 failures if there had been no wind. However, that's 25 an impossible scenario. Again, I always want to</p>
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<p>1 other stud, in other words. Today, and recognizing 2 that those were not sufficient for the kind of winds 3 we experienced with Hurricane Katrina, today, we use 4 much heavier duty anchors and ties mostly made by a 5 company called Simpson. Simpson strong ties, 6 they're many times called. We do some strapping. 7 Usually it's with a more heavy duty strap than 8 these. They're not nailed on. They're screwed on. 9 These nails pulled out of the straps. Some straps 10 broke as you can see in the pictures, and the nails 11 simply pulled out of the intermediate studs that 12 were not strapped down so... 13 Q. And the observations of, I guess, the 14 presence of base plates and metal straps remaining 15 on the slab, what is the significance of that 16 evidence? 17 A. It's very clear that the -- the studs 18 pulled free from the base plates where they were 19 gone. Where they were missing, there were some 20 nails there or nail holes where they were on 16 inch 21 centers all along, and the straps, as you can see, 22 the nails pulled free of them where they were 23 nailed -- nailed to the stud. Where the straps 24 broke obviously means something. In the pictures 25 that the owners furnished me, you can actually see</p>	<p>1 make that hypothetical, but it's useless because 2 it's -- there's no -- there was not such a no wind 3 situation. 4 Q. Well, I -- I understand that you think 5 it's useless, but I -- you know, but I just want to 6 make sure that you -- that your testimony is clear, 7 though. If -- and you're right, this is a -- a 8 hypothetical, but if this was a no wind event and 9 just storm surge or even if it was a hypothetical 10 involving -- well, just a hypothetical involving 11 just a water, then the storm surge could have caused 12 the same attachment failures that you see at the 13 Politz property, correct? 14 A. The force of water to the height it came 15 on this building would have caused -- in the absence 16 of wind, would have caused these type of failures 17 also. Could have. 18 Q. Okay. All right. Let's turn to -- can 19 you turn to 308, Politz-308 in your report? 20 A. Okay. 21 Q. In Politz-308, you write, "For my 22 evaluations and structural calculations as contained 23 herein, I have selected a conservative value of the 24 wind speed gusts at 135 miles per hour, which is 10 25 to 15 miles per hour below the wind gusts as shown</p>

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25 (Pages 94 to 97)

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<p>1 in the Calaci report, and is much below the</p> <p>2 microburst winds which probably occurred at the</p> <p>3 property." Did I read that correctly?</p> <p>4 A. Yes, you did.</p> <p>5 Q. Okay. And so you -- you base your</p> <p>6 opinions in your report on an estimate of wind speed</p> <p>7 gusts of 135 miles per hour, correct?</p> <p>8 A. Yes, a conservative value of 135.</p> <p>9 Q. And what is your -- the basis for your</p> <p>10 assumption of 135 mile per hour wind gust speeds at</p> <p>11 the Politz -- Politz residence?</p> <p>12 A. Well, number one, Mr. Calaci states that</p> <p>13 the hurricane winds at the property were 130 to 150</p> <p>14 miles per hour. I did not want to use the high end</p> <p>15 extreme to evaluate this property. I wanted to use</p> <p>16 the -- near the lower end. I also had a 135 mile</p> <p>17 per hour reading from the National Weather Service</p> <p>18 at Poplarville, which is not a very long distance.</p> <p>19 It's north and west of this property about seven</p> <p>20 miles, but it's -- it's a reading by the National</p> <p>21 Weather Service, and I have the one in Pascagoula</p> <p>22 where they ran it at 137, the actual anemometers.</p> <p>23 These are coastline areas not inland areas such as</p> <p>24 Stennis and -- and so on.</p> <p>25 Q. You referenced two anemometer readings.</p>	<p>1 which explains in layman's terms that the winds in</p> <p>2 the northeast quadrant are always higher than they</p> <p>3 are at the center of the storm, and that's because</p> <p>4 of the hurricane moving north, you've got to add the</p> <p>5 north wind speed, it's 10 to 15 miles per hour, to</p> <p>6 winds of the storm in the right-hand quadrant, which</p> <p>7 is the northeast quadrant where this house was.</p> <p>8 On the left-hand quadrant, which would be</p> <p>9 the southwest side, you have to subtract it</p> <p>10 conversely to get the wind speeds. So the wind</p> <p>11 speed as reported by NOAA at the state line, which</p> <p>12 is, again, not many miles to the west of this, were</p> <p>13 reported sustained at 125 miles per hour. If you</p> <p>14 add 10 to 15 miles per hour, you've got 135 and 140</p> <p>15 miles per hour there.</p> <p>16 Q. Mr. Biddy, before you -- well, there are</p> <p>17 other things besides that. I have a question about</p> <p>18 that one point that you just mentioned.</p> <p>19 A. Well, if you want me to go through all of</p> <p>20 these that I mentioned before like -- like</p> <p>21 Dr. Fitzpatrick's and AccuWeather's.</p> <p>22 Q. The -- you identified a number of</p> <p>23 meteorologist -- or meteorological sources of data</p> <p>24 previously. Those are the ones that -- is it your</p> <p>25 testimony that you have relied on all of those?</p>
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<p>1 Can you tell me what anemometers you're referring</p> <p>2 to?</p> <p>3 A. The Emergency Management Center at</p> <p>4 Poplarville. The -- in Appendix D of the report</p> <p>5 show the National Weather Service reading of the</p> <p>6 highest gusts there that they read before their</p> <p>7 power went out and they lost telephone contact with</p> <p>8 them, 135 miles an hour in Poplarville. Also, the</p> <p>9 report on that same page, Appendix D, the highest</p> <p>10 reading they received from Pascagoula by telephone</p> <p>11 before their telephone line went out there of 125</p> <p>12 miles per hour, but the 135 was at Poplarville,</p> <p>13 which would have been closer than Pascagoula is and</p> <p>14 on the western part of the storm where you expect a</p> <p>15 little higher.</p> <p>16 Q. Okay. Other than the Calaci report and</p> <p>17 those two anemometer readings, are there any other</p> <p>18 data that you are relying on for your assumption of</p> <p>19 135 mile per hour wind gust speed at the Politz</p> <p>20 residence?</p> <p>21 A. Well, yes, I went through in Part 1 and</p> <p>22 Part 2 of my report under history and sequence, I go</p> <p>23 through a number of justifications for 135 mile an</p> <p>24 hour winds. One, for instance, will be the Navy's</p> <p>25 -- part of the Navy data that I have in Appendix E,</p>	<p>1 A. Back up. It would just be cumulative to</p> <p>2 Calaci, that's correct, yes.</p> <p>3 Q. With respect to the adding 10 to 15 mile</p> <p>4 per hour, and I think you discussed that in your</p> <p>5 report on page Politz-313. So it's your view that</p> <p>6 in order to accurately determine wind speeds in the</p> <p>7 northeast quadrant, which I guess is where the</p> <p>8 Politz residence is, you should add 10 to 15 miles</p> <p>9 per hour to the NOAA reported wind speeds?</p> <p>10 A. Yes, because NOAA was reading the center</p> <p>11 of the storm as it came ashore, the second landfall</p> <p>12 at the Mississippi/Louisiana line of 125 miles per</p> <p>13 hour. That's what they were reporting, and,</p> <p>14 therefore, if you're trying to find out what it is</p> <p>15 in the northeast quadrant, you've got to add 10 to</p> <p>16 15 miles per hour to it.</p> <p>17 Q. The -- and the NOAA numbers you're</p> <p>18 referring to, is that the NOAA H wind analysis</p> <p>19 you're -- you know what I'm referring to?</p> <p>20 A. It's in Appendix D. It's their report,</p> <p>21 preliminary report at least. Let me find it for</p> <p>22 you. The document is entitled "Summary of Hurricane</p> <p>23 Katrina," dated September 1st, 2005, by NOAA, and I</p> <p>24 will have to find what Bates number it is for you.</p> <p>25 It's page 5 of 7 of that document by my numbers.</p>

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<p>1 Q. I'm on the page you're referring to?</p> <p>2 A. Uh-huh, you are.</p> <p>3 Q. I am, yeah.</p> <p>4 A. What Bates number is it?</p> <p>5 Q. It looks like it's Politz-409, page 5 of</p> <p>6 7.</p> <p>7 A. Let me make sure. Yes, that's right. The</p> <p>8 second full paragraph down reads that -- as follows,</p> <p>9 "Wind speeds over 140 mile per hour were recorded at</p> <p>10 landfall in southeastern Louisiana while winds</p> <p>11 gusted to over 100 miles per hour in New Orleans</p> <p>12 just west of the eye. As the hurricane made its</p> <p>13 second landfall on the Mississippi/Louisiana border,</p> <p>14 wind speeds were approximately 110 knots (125 miles</p> <p>15 per hour)."</p> <p>16 Q. And that's -- this report is where you get</p> <p>17 the 125 mile per hour figure from NOAA that you cite</p> <p>18 in your report?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. Do you have any idea whether NOAA</p> <p>21 in putting this number -- in estimating that number</p> <p>22 had already factored in the 10 to 15 mile per hour</p> <p>23 adjustment that you referred to as something that is</p> <p>24 understood in meteorology to -- to be an adjustment</p> <p>25 that needs to be made?</p>	<p>1 NOAA is one of the meteorological sources that you</p> <p>2 cite as a source of meteorological data that you</p> <p>3 look to in preparing your reports, correct?</p> <p>4 A. Yes.</p> <p>5 Q. You don't know whether in their wind speed</p> <p>6 estimates, they already incorporate adjustment for</p> <p>7 northeast quadrant winds, do you?</p> <p>8 A. This reading that I'm relying on here and</p> <p>9 pointing out to you was not in one of the quadrants.</p> <p>10 It was at the landfall in the center of the storm,</p> <p>11 at the eye of the storm.</p> <p>12 Q. That's -- my question is different,</p> <p>13 though. Do you know whether NOAA has</p> <p>14 incorporated -- has built into its wind speed</p> <p>15 estimates adjustment for northeast quadrant,</p> <p>16 southeast quadrant, do you know?</p> <p>17 A. I do not know.</p> <p>18 Q. Okay. And if they have, it would be a</p> <p>19 mistake to add that 10 to 15 mile per hour</p> <p>20 adjustment a second time, correct, assuming that</p> <p>21 they have already built that into their wind speed</p> <p>22 estimates, correct?</p> <p>23 A. Yes, but I haven't used any other NOAA</p> <p>24 readings except that one.</p> <p>25 Q. Can you turn to Politz-306 in your report?</p>
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<p>1 A. They had not because they're measuring the</p> <p>2 eye, the center of the eye where it made landfall,</p> <p>3 so they're not talking about this 10 to 15 miles per</p> <p>4 hour that the Navy explains in their report needs to</p> <p>5 be added to winds in the northeast quadrant away</p> <p>6 from the eye.</p> <p>7 Q. Well, in general, do you have -- do you</p> <p>8 have personal knowledge of whether NOAA's wind</p> <p>9 analysis throughout the coast of Mississippi</p> <p>10 incorporates this 10 to 15 mile per hour adjustment</p> <p>11 or not?</p> <p>12 A. I don't know.</p> <p>13 Q. Okay. And --</p> <p>14 A. A report that they reported it early on in</p> <p>15 September, a month after the storm, so 125 mile an</p> <p>16 hour landfall, that's the eye. Okay. We're 30, 40</p> <p>17 miles to the east in the northeast quadrant. It's</p> <p>18 common knowledge to the man on the street that's</p> <p>19 been on the coast will tell you the winds in the</p> <p>20 northeast quadrant are always higher than they are</p> <p>21 in the west quadrants, and the Navy just simply put</p> <p>22 that in succinct language in Appendix C, which I've</p> <p>23 quoted in my report.</p> <p>24 Q. I guess my question to you, Mr. Biddy, is</p> <p>25 do you know whether -- let me take a step back.</p>	<p>1 And in the middle of the page, you write, "The</p> <p>2 DMD/Calaci investigation of the Politz property also</p> <p>3 found strong evidence of one or more microbursts in</p> <p>4 the area with winds of 150 miles per hour, stating</p> <p>5 in his report that, 'It is very conclusive that a</p> <p>6 microburst hit this region.'" Did I read that</p> <p>7 correctly?</p> <p>8 A. Correct.</p> <p>9 Q. Putting aside Mr. Calaci's opinion, do any</p> <p>10 of your opinions depend on whether or not a</p> <p>11 microburst or tornado affected the Politz property?</p> <p>12 A. It does not.</p> <p>13 Q. Okay.</p> <p>14 A. I could have used that, of course, and</p> <p>15 very easily proved that it had blown away the</p> <p>16 building but --</p> <p>17 Q. Well, let me ask you this question: Based</p> <p>18 on the visual evidence that you've seen in the</p> <p>19 photographs immediately after Hurricane Katrina,</p> <p>20 have you been able to see physical evidence of what</p> <p>21 you would think to be a tornado?</p> <p>22 A. Well, at the site itself, I noted evidence</p> <p>23 of extreme, extreme winds. Whether they're from --</p> <p>24 from winds just of the hurricane or isolated</p> <p>25 downbursts or not, I cannot tell you, but I can tell</p>

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27 (Pages 102 to 105)

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<p>1 you that everything is destroyed and practically 2 everything in quite a rage. 3 Q. Again, putting aside the timing, I know 4 that you think the wind came first and destroyed it 5 all, but you would agree the fact that everything is 6 destroyed, by itself doesn't tell you whether wind 7 or water destroyed the property, correct? 8 A. You have to, of course, know the sequence 9 and history of the storm before you can determine 10 mechanism of destruction. 11 Q. Okay. Well, my -- that wasn't my 12 question. My question was: You would agree putting 13 aside the sequence, the timing of wind versus water 14 in the storm, you would agree that -- you would 15 agree that the storm surge also could have -- the 16 storm surge was sufficient to destroy the Politz 17 property? 18 A. In a vacuum, yes. 19 Q. Okay. And in fact, your opinion as to -- 20 well, your opinion that wind destroyed the property 21 before the storm surge would have inundated the 22 property, that's based on the sequence and timing of 23 the meteorological conditions at the Politz 24 residence, correct? 25 A. And of course, my engineering application</p>	<p>1 the code that everybody used in Mississippi and most 2 every place else in the south up until the standard 3 building code began to be adopted in later time but 4 -- 5 Q. At -- at what maximum wind gust speed 6 would you no longer be confident in your opinion 7 that wind destroyed the Politz residence? 8 A. You mean what's the lowest -- what's the 9 lowest where I wouldn't be confident? 10 Q. Correct. 11 A. I haven't run the numbers, but I would say 12 105, I would be worried. I couldn't sit here and 13 tell you without running some numbers on it. 14 Q. And that's for -- is that for 105 15 sustained wind speed? 16 A. No, gusts. Gust is what the building 17 feels and that's what the code demands that you 18 design for. That's the force against the building 19 is the gusts. It comes in waves, as you probably 20 know, from the storm. 21 Q. Do you know -- do you have any 22 understanding of how many times during this storm 23 the winds reached the maximum wind gust speeds 24 regardless of what those speeds were? 25 A. Well, it's my experience, and all the</p>
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<p>1 of those to the structure of the building that 2 proves the attachment failures and also proves the 3 stud failures on the building. 4 Q. Well, it's -- it's -- and it's obvious 5 that the attachment failures and the stud failures 6 occurred, right? 7 A. Of course. 8 Q. You don't need to be an engineer to go to 9 the site and say -- see that evidence? 10 A. Well, you have to be an engineer to know 11 whether or not these winds that did occur at the 12 site, according to the meteorologists, would have 13 done that. Some winds wouldn't, you see. Take 85, 14 90 mile an hour winds, the building would still be 15 standing there when the water got there. 16 Q. Well, how about -- how about 105 mile per 17 hour winds? 18 A. I don't know where the -- where the break 19 line is, but it's not much more than 105. Wind 20 pressure on a wall varies as to the square of 21 velocity, so you start going up to 105 -- 105 to 110 22 used to be the norm where we used the 25 mile per 23 hour -- I mean 25 pounds per square foot loading on 24 buildings. That's under the old Southern Building 25 Code back in -- that was in vogue, and it was the --</p>	<p>1 textbooks I have read tell me this, that winds come 2 in gusts and waves, pulses come and then recede, 3 come and recede. Water does the same thing if 4 you've ever watched high tide even coming in, comes 5 and then it recedes, comes and then it recedes. 6 Many times -- let's put it that way -- many times 7 these high gusts hit the -- hit the building. 8 Q. Well, let me -- I want to make sure you 9 understood my question. I -- I'm not asking 10 whether -- I'm not asking whether it's true that 11 winds grow and then decline. My question is 12 whatever the maximum wind gusts that occurred during 13 Hurricane Katrina, do you have any understanding as 14 to how many times that maximum gust, three second 15 wind gust speed was reached during the entire course 16 of the storm then? 17 A. Well, I have the meteorology data that 18 says it occurred over at least a three-hour period 19 and before the high waters got there, so that's -- 20 that's in pulses of even the height of the storm, 21 it's probably at least every 30 seconds during that 22 period of time. 23 Q. So it's your understanding that the -- 24 during a three-hour window, the maximum wind gusts, 25 whatever that figure is, would have been occurring</p>

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28 (Pages 106 to 109)

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<p>1 every 30 seconds?</p> <p>2 A. And something lower than that, and</p> <p>3 perhaps, something higher than that. I've used, you</p> <p>4 understand, much lower than the maximum and a little</p> <p>5 higher other than the lowest as quoted by the</p> <p>6 meteorologist.</p> <p>7 Q. And I'm not talking -- as I said, putting</p> <p>8 aside what that maximum wind gust figure is --</p> <p>9 A. Uh-huh (affirmative response).</p> <p>10 Q. -- this is a different question. My</p> <p>11 question to you is: Whatever the maximum wind gusts</p> <p>12 that was reached during Hurricane Katrina at the</p> <p>13 Politz residence, do you have any understanding as</p> <p>14 to how many times the winds reached that maximum</p> <p>15 wind gust speed?</p> <p>16 A. You know, by definition, maximum is the</p> <p>17 peak, so that's a one -- one time event. I believe</p> <p>18 that the 135 mile per hour winds occurred many times</p> <p>19 on the building. There may have well been a few</p> <p>20 150s. I don't know. I didn't need that to -- to</p> <p>21 prove mechanism of destruction.</p> <p>22 Q. Well, how many times would the wind</p> <p>23 gusts -- in your view, how many times would a wind</p> <p>24 gust of 135 miles per hour need to occur for the</p> <p>25 winds to destroy the Politz property?</p>	<p>1 late morning of August 29th, 2005, then later</p> <p>2 gradually shifted to the southeast with this wind</p> <p>3 direction acting as a deterrent from any 'crashing</p> <p>4 wall of water' moving onshore." Did I read that</p> <p>5 accurately?</p> <p>6 A. You did.</p> <p>7 Q. And is that consistent with your view as</p> <p>8 we sit here today of the direction of the winds</p> <p>9 during the morning of Hurricane Katrina?</p> <p>10 A. It is.</p> <p>11 Q. Okay. If you can turn to 312, I think you</p> <p>12 addressed this point a little further. If you go</p> <p>13 down to the second from the bottom paragraph, the</p> <p>14 one that begins "the DMD report."</p> <p>15 A. Yes.</p> <p>16 Q. And there, you write in your report, "The</p> <p>17 winds for the early part of the storm were blowing</p> <p>18 from the northeast and east and did not shift to the</p> <p>19 southeast until much later in the storm and</p> <p>20 therefore kept the waters low. The early winds of</p> <p>21 the hurricane from about 6:00 a.m. until after 9:00</p> <p>22 a.m. did their damage to the Politz property without</p> <p>23 any possibility of structural damage being caused by</p> <p>24 the storm's waters." Did I read that correctly?</p> <p>25 A. You did.</p>
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<p>1 A. Depends on what type of mechanism of</p> <p>2 destruction you're talking about.</p> <p>3 Q. Well, I'm talking about the mechanisms of</p> <p>4 destruction that you're talking about -- you talk</p> <p>5 about in your report.</p> <p>6 A. Well, there's two different ones, though,</p> <p>7 and one is time dependent, and the other one is not.</p> <p>8 The attachment failures, which is the force it takes</p> <p>9 to pull these nails out, once it -- it gets there,</p> <p>10 and it's three times as much as the resistance of</p> <p>11 the nails, it's coming free, and it may take two to</p> <p>12 fully get it pulled free. Now, stud breakage is</p> <p>13 another thing. The code allows you to load lumber</p> <p>14 for a -- to a 60 percent greater than allowable</p> <p>15 stress for a total cumulative duration of 10 minutes</p> <p>16 during a windstorm, so it takes a little time before</p> <p>17 the stud breaks under those wind conditions, but</p> <p>18 not -- but a cumulative duration of 10 minutes will</p> <p>19 do it. And, obviously, it did do it because we see</p> <p>20 the -- some of the studs in the after storm pictures</p> <p>21 broken in two.</p> <p>22 Q. All right. Still on Politz-306 in your</p> <p>23 report, on the top paragraph, you're referring to</p> <p>24 Mr. Calaci's report, you say that, "He stated that</p> <p>25 the winds were from the east/northeast until the</p>	<p>1 Q. And you included this in your report. Can</p> <p>2 you explain what is the significance of the</p> <p>3 direction of the winds during Hurricane Katrina?</p> <p>4 A. Okay. It's a great significance. If</p> <p>5 you've got very, very strong winds coming from the</p> <p>6 northeast and east, you're going to be pushing out</p> <p>7 from the water. You have to realize that a</p> <p>8 hurricane is a wind-driven event, at least the storm</p> <p>9 surge part of it is. Granted you've got water --</p> <p>10 you've got build up of winds and build up water</p> <p>11 coming in, but if you've got opposite winds coming</p> <p>12 from the shore onto the water, it will charge that</p> <p>13 height of the water until those winds shift to the</p> <p>14 southeast to help out the southeast winds and so</p> <p>15 forth.</p> <p>16 Q. And so -- and so it's your view that there</p> <p>17 were high winds coming from the northeast and east,</p> <p>18 as you say in your report, during the morning of</p> <p>19 Hurricane Katrina, that's correct, right?</p> <p>20 A. That is correct.</p> <p>21 Q. And you have an understanding that that</p> <p>22 retards the rising of the storm surge, correct?</p> <p>23 A. Yes, it does.</p> <p>24 Q. It's fair to say that's a meteorological</p> <p>25 opinion?</p>

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29 (Pages 110 to 113)

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<p>1 A. Yeah. I've read it in many meteorological 2 reports. 3 Q. Right. It's something you -- you have 4 taken that from Mr. Calaci's report and others, 5 perhaps? 6 A. It's also an easy engineering observation, 7 too, that if you've got force opposing the water 8 coming in, these kinds of winds, as long as they 9 oppose it, it's going to retard it to some extent. 10 It's not a tsunami. It's not a big wall of water. 11 You couple that with the eye -- eyewitness 12 testimonies that I have seen and taken myself, and 13 also the video at the Beau Rivage Casino that I have 14 a copy of, I refer to, it's created a gradual high 15 tide effect coming in rather than any wall of water 16 and big crashing waves coming in. And 17 Dr. Fitzpatrick said that waves were no higher than 18 one to three feet over at the center of the storm. 19 Q. Getting back to the early winds. The -- 20 you would expect that part of the structure facing 21 the direction of the winds to suffer the most 22 damage; is that correct, generally speaking? 23 A. Well, yeah, the windward side, yes, 24 they -- they would suffer the initial damage. 25 Q. Right.</p>	<p>1 if you -- if that's not, and if you need to take a 2 break. 3 A. No, I just have to meet with Mr. Denham on 4 another matter during lunch. 5 Q. Understood. All right. Okay. On this 6 page, you're referring to a report from the U.S. 7 Navy called the -- I guess their Naval Meteorology 8 and Oceanographic Command? 9 A. Correct. 10 Q. NMOC? 11 A. Yes, NMOC. 12 Q. NMOC, okay. We'll use your term NMOC. 13 And you relied on the NMOC report entitled 14 "Preliminary Model Hindcast of Hurricane Katrina 15 Storm Surge," correct? 16 A. It was, as I said, about all of the other 17 meteorology reports. It was cumulative and proof of 18 the Calaci report, yes. 19 Q. Sure. And I'm not saying that you relied 20 on it exclusively, but -- 21 A. Yes. 22 Q. -- it's fair to say that you attached it 23 to your report; is that right? 24 A. Absolutely. 25 Q. All right. Now, you discussed the -- I</p>
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<p>1 A. The leeward sides actually have the most 2 force on them after the building is open. 3 Q. Okay. Before the building is open, 4 though, you would expect that structures or trees 5 closer to the direction of the wind -- I think you 6 called it is the windward side, is that -- 7 A. That's right. 8 Q. Yeah. They would suffer more damage than 9 structures on the leeward side, right? 10 A. Oh, yes, that's right. 11 Q. And the -- and the early winds in the 12 hurricane from 6:00 a.m. until 9:00 a.m., they were 13 doing their damage blowing from the northeast and 14 east; is that -- 15 A. That's right. 16 Q. That's right, okay. Can you turn to 17 Politz-307? It's still kind of dealing with the 18 meteorological conditions part of your report. 19 A. Are you going to be at a stopping place 20 for a lunch break sometime soon? 21 Q. Yeah, if you -- let's -- let me just ask 22 you questions about this page, and then we can stop. 23 Is that fair -- 24 A. Sure. 25 Q. -- Mr. Biddy? If you -- just let me know</p>	<p>1 guess the graph of their model of the storm surge 2 during Hurricane Katrina, correct? 3 A. Correct. 4 Q. And in the middle of that large paragraph 5 in Politz-307, you write, "The graph shows the water 6 level at approximately seven feet at 7:00 a.m., at 7 13 feet at 8:00 a.m., at 18 feet at 9:00 a.m., at 22 8 feet at 10:00 a.m., and at 27 feet at 11:00 a.m." 9 Did I read all of that correctly? 10 A. You did. 11 Q. Okay. Now, here and elsewhere in your 12 report, you also note that the first floor elevation 13 of the Politz house was 14.8 feet? 14 A. That's correct. 15 Q. Okay. Now, given these numbers that we 16 just read, the property would begin to be inundated 17 sometime between 8:00 a.m. and 9:00 a.m. under these 18 figures, correct? 19 A. If you read that sentence in a vacuum, 20 yeah, without reading the rest of the paragraph. 21 Q. And we're getting -- and I know we're 22 going to talk about what you think needs to be 23 modified to these numbers, but I just want to make 24 sure, you know, just looking at these numbers that 25 come from the NMOC report itself, which you attached</p>

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<p>1 to your report, if the Politz first floor elevation 2 was at 14.8 feet, 18 feet of water at 9:00 a.m. 3 would have put over three feet of water above the 4 first floor, right?</p> <p>5 A. If you only read those numbers, yes.</p> <p>6 Q. Yeah. And, again, just going on these 7 numbers that are in the NMOC report that is attached 8 as an appendix to your report. Now, above that 18 9 feet, do you know if these -- well, let me ask you 10 this question: Do you know if these figures from 11 the NMOC report which you've included in your report 12 include waves superimposed upon the storm surge 13 height?</p> <p>14 A. No, no, I know that I read the report 15 thoroughly, and they explained very carefully that 16 their numbers are based on the height of the water, 17 maximum height of the storm surge at the water line 18 and did not include the topography of the shoreline 19 nor the bathymetry under the -- the water --</p> <p>20 Q. Right.</p> <p>21 A. -- and therefore were the -- only the 22 water elevations at the shoreline.</p> <p>23 Q. And I understand you've -- you've laid 24 that out. You've made that clear in your report, 25 and we'll address that in just a minute. I just</p>	<p>1 Q. Well, you said yourself, I think, Pat 2 Fitzpatrick estimated one to three feet of waves?</p> <p>3 A. That would be 1.8 feet. It would have to 4 have waves on top if that was the case, and it did 5 not include waves.</p> <p>6 Q. Okay.</p> <p>7 A. So you --</p> <p>8 Q. And just -- and again, I'm not -- you 9 know, I understand. Just as we sit here today, 10 you're not sure whether the NMOC numbers include 11 waves or not?</p> <p>12 A. I do not know.</p> <p>13 Q. Okay. Now, you referred to this before. 14 You state in your report that the NMOC numbers 15 should be lower and delayed in time; isn't that 16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. Now, it's fair to say that's a 19 meteorological opinion, right?</p> <p>20 A. It's been shown by many meteorology 21 studies that that's the case, and I can cite some 22 including the IPET study if you'd like.</p> <p>23 Q. Well, my question to you is the actual 24 adjustments that you make in your report are not 25 found in the NMOC report, correct?</p>
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<p>1 want to make sure that we're on the same page. But 2 just looking at the NMOC numbers again, you know, so 3 you don't know whether the NMOC number even include 4 waves superimposed. It could be that the waves 5 brought the height of the water even higher than 6 three feet above the first floor elevation of their 7 property at 9:00 a.m., correct?</p> <p>8 A. Well, I don't believe that's the case. 9 They said they ran the ADCIRC model, which gives you 10 the maximum height of the water at the shoreline in 11 this case.</p> <p>12 Q. You don't know whether that includes -- 13 you don't have any reason to think that includes 14 waves superimposed on that?</p> <p>15 A. I have no reason to believe that it does 16 not include those waves.</p> <p>17 Q. All right. And even if you look at -- 18 well, if there were waves superimposed on that storm 19 surge level, even the 13 feet of water at 8:00 a.m. 20 would have been impacting the property above its 21 first floor elevation before the storm surge itself 22 entered the residence, correct?</p> <p>23 A. I don't know. 13 feet at 8:00 a.m. and 24 this has a 14.8, I doubt it, no, not at 8:00 25 o'clock. It's also --</p>	<p>1 A. No, but the explanation that this is at 2 the shoreline is in the fact that the explanation 3 that it did not include topography of the inshore 4 areas nor the bathymetry of the underwater areas is 5 explained in the NMOC report.</p> <p>6 Q. Well, do -- and I've looked at the NMOC 7 report, and it does note those factors, but it 8 doesn't say whether that means you have to lower or 9 raise the storm surge levels, right?</p> <p>10 A. But I have read many, many meteorology 11 reports by AccuWeather and by Dr. Fitzpatrick and 12 IPET and others that prove that that's the case. 13 This was a --</p> <p>14 Q. And you --</p> <p>15 A. If I may explain. I'm sorry if I --</p> <p>16 Q. No, I --</p> <p>17 A. -- interrupted you.</p> <p>18 Q. I want you to explain your answers. 19 That's fine.</p> <p>20 A. The Navy's report was put out November 21 22nd of 2005. It was done so in a hurry to get 22 something out on the street because it was a very -- 23 I mean, a great clamor for it from politicians 24 especially, and I think Representative Taylor put a 25 lot of pressure on them for one, but anyway, they</p>

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<p>1 got it out early on. Now, obviously, they didn't</p> <p>2 have all of the data. They didn't have the</p> <p>3 bathymetry. They didn't have the topography and</p> <p>4 other things, but they put out what they had, and</p> <p>5 they ran the ADCIRC model for this area, and it's --</p> <p>6 it's reasonably accurate, but it's -- it was at the</p> <p>7 shoreline and did not intend to be for the inshore</p> <p>8 areas.</p> <p>9 Q. Mr. Biddy, everything you just said is</p> <p>10 meteorological opinions, correct?</p> <p>11 A. Of course.</p> <p>12 Q. Okay.</p> <p>13 VIDEOGRAPHER: Two minutes.</p> <p>14 MR. GILMORE: It's a good stopping point.</p> <p>15 Let's break for lunch.</p> <p>16 VIDEOGRAPHER: Off the record at 12:06.</p> <p>17 End of tape three.</p> <p>18 (A lunch break was taken.)</p> <p>19 VIDEOGRAPHER: Beginning tape four. On</p> <p>20 the record at 1:11.</p> <p>21 Q. (By Mr. Gilmore) Good afternoon, Mr.</p> <p>22 Biddy.</p> <p>23 A. Good afternoon.</p> <p>24 Q. During our break, did you talk with</p> <p>25 counsel about this case or the deposition at all?</p>	<p>1 Q. -- that the photographs show that kind of</p> <p>2 damage which you describe there?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So the photographs you took are in</p> <p>5 Appendix A to your report, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. If you can turn to that, it begins</p> <p>8 at -- I believe that begins on Politz-334.</p> <p>9 A. Okay, I'm there.</p> <p>10 Q. Okay. And I'd like to just go through</p> <p>11 these photographs. The ones that are -- turning to</p> <p>12 the first page of the photos on Politz-335, the top</p> <p>13 page has one dead tree in the background, right?</p> <p>14 A. Yeah. Broken off and then there are some</p> <p>15 to the left that appear to be as well, smaller ones.</p> <p>16 Q. Could you hold up the picture and point to</p> <p>17 the ones that you think are broken?</p> <p>18 MR. GILMORE: If the videographer could</p> <p>19 just zoom it.</p> <p>20 A. These are on the left, appear to be, this</p> <p>21 one does. All of these are -- of course, it's three</p> <p>22 years later of vegetation, but a lot of the tops</p> <p>23 were broken out of them as well, the shorter ones in</p> <p>24 the right background.</p> <p>25 Q. (By Mr. Gilmore) Is there anything else</p>
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<p>1 A. No.</p> <p>2 Q. We're still working on your report which</p> <p>3 is Defense Exhibit 42. Can you turn to Politz-319</p> <p>4 in your report?</p> <p>5 A. All right.</p> <p>6 Q. And on that page, you reference taking</p> <p>7 photographs in your site visit on June 2008,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. And you also received photographs from the</p> <p>11 owner, Mrs. Politz, right?</p> <p>12 A. Yes, through their attorneys.</p> <p>13 Q. Through her attorneys?</p> <p>14 A. Uh-huh (affirmative response).</p> <p>15 Q. And you write in your report, "The</p> <p>16 photographs I obtained of the area and those</p> <p>17 furnished by the owner all show extensive broken and</p> <p>18 damaged large trees in the area which attest to the</p> <p>19 wind's high velocity and probably microbursts in the</p> <p>20 area."</p> <p>21 A. Correct.</p> <p>22 Q. Did I read that correctly?</p> <p>23 A. Yes, you did.</p> <p>24 Q. And is that your opinion today --</p> <p>25 A. Yes, it is.</p>	<p>1 of significance in these photographs here, Mr.</p> <p>2 Biddy?</p> <p>3 A. Well, on -- on 335?</p> <p>4 Q. On 335, yeah.</p> <p>5 A. Well, those are general views, just long</p> <p>6 shot views of the remaining concrete slab</p> <p>7 foundation.</p> <p>8 Q. And if you turn to the next page, what --</p> <p>9 what of significance do these photographs show here?</p> <p>10 A. Well, the top picture is beginning to get</p> <p>11 a little closer to the slab to show base plates</p> <p>12 still remaining and, in fact, you can see -- on the</p> <p>13 top one, you can see nails still remaining on the</p> <p>14 right-hand bottom of the base plates, and you can</p> <p>15 see some anchor bolts. It's not close enough to</p> <p>16 show detail yet.</p> <p>17 Q. Anything else of significance?</p> <p>18 A. No, it's just the overall views of the</p> <p>19 slab and getting a little closer to the closeness of</p> <p>20 it.</p> <p>21 Q. Okay. Turn to the next page, Politz-337.</p> <p>22 A. Yes.</p> <p>23 Q. This photograph is taken from the Politz</p> <p>24 slab towards the sea, the one on the top?</p> <p>25 A. No, the one on the top is taken from the</p>

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<p>1 road. That's the driveway, the steepest part that 2 goes up to the -- to the slab, which was their 3 driveway to the roadway. The bottom one, of course, 4 is a little closer up of the -- starting to get a 5 little closer up of the base plates and the 6 remaining nails and -- and scraps.</p> <p>7 Q. You can see the water from their property? 8 A. Yes, yes, you can.</p> <p>9 Q. How close -- have you measured or 10 determined how far from the property to the water 11 their house is?</p> <p>12 A. It's on the order of 6 or 700 feet. I 13 haven't measured it, but just looking at it. In 14 fact, I went by there yesterday. It's -- that's an 15 approximate distance. The only thing that's in 16 between them is the back lots behind it and the 17 highway and the beach.</p> <p>18 Q. The next page, Politz-338, what of 19 significance do these photographs show?</p> <p>20 A. Well, these are closeups of the base 21 plates that remained, and as you can see, there is 22 nails. There are nails or studs that previously 23 were attached to the base plates. There are also 24 broken steel scraps that were -- in this case, the 25 one on the bottom picture was broken. You see a</p>	<p>1 signs of damage as to -- as Politz-338?</p> <p>2 A. Yes, and you can specifically see that the 3 nail pull outs there in the strap where it was 4 nailed to the stud before, you see a rusty one.</p> <p>5 Q. And again, as with Politz-338, the damage 6 shown here in Politz-339, the storm surge was 7 sufficient to do this kind of damage as well in a 8 vacuum, right?</p> <p>9 A. In a vacuum, sure.</p> <p>10 Q. And we don't have to belabor the point, 11 but going through 340, 341, 342, which are just 12 further closeups of what was remaining on the slab, 13 all of the damage that's shown in those photographs 14 could have been done by storm surge in a vacuum, 15 correct?</p> <p>16 A. In a vacuum, that's correct.</p> <p>17 Q. Politz-343 shows a closeup of the tree, I 18 think we saw in the first photo.</p> <p>19 A. Yes.</p> <p>20 Q. And that's a dead tree, right?</p> <p>21 A. Uh-huh (affirmative response).</p> <p>22 Q. Now, do you know when that tree would have 23 died?</p> <p>24 A. No, but I assume it was -- you just have 25 to assume it was storm related. You can see in</p>
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<p>1 bent anchor bolt in the top area and a shattered 2 base plate. You see the two anchor bolts intact on 3 the bottom base plate.</p> <p>4 Q. And is there anything that these 5 photographs show, these closeups of the base plates 6 and the connections and broken metal straps and 7 anchor bolts?</p> <p>8 A. Is it of significance, you asked?</p> <p>9 Q. Well, that -- that supports your 10 conclusion as to the fact that wind was what 11 destroyed the property.</p> <p>12 A. Yes, the pull out failures of the studs. 13 See, there was a stud every 16 inches along this 14 base plate in all directions. You can see where the 15 stud was by the remaining nails. You can even see 16 the little nails that held the steel straps that 17 appear to be every other one, as I think we'll see 18 in some of the other pictures as we go through it. 19 But the ones on the side of the base plate, those 20 were where the strap was attached to the base plate.</p> <p>21 Q. It's fair to say that that same damage 22 could have been done by the storm surge, and I think 23 the term you've used is in a vacuum?</p> <p>24 A. That's correct, in a vacuum.</p> <p>25 Q. And the next page, does that show similar</p>	<p>1 the -- in the lower pictures some of the limbs off 2 of the trees and what not, but it's now vegetated 3 three years later, which looks a lot better.</p> <p>4 Q. And it's fair to say Politz-343, the 5 bottom photo, at least, putting aside the top photo 6 and however that tree died on the top, the trees 7 towards the bottom that are -- appear closest to the 8 water, do you see any signs of wind damage to these 9 trees?</p> <p>10 A. Yes, I do. There are limbs that are 11 broken off, big limbs, as a matter of fact, on some 12 of the prongs that go out from them. I don't know 13 how many were, you know, actually taken out. I 14 didn't count stumps.</p> <p>15 Q. Uh-huh.</p> <p>16 A. But all trees were damaged, I can promise 17 you, because I was in that area many times, and if 18 it stood, it stood because the vegetation was blown 19 off of it and enough limbs were -- that were 20 resisting the wind broke off so that the main trunk 21 stood. Most of this is new growth you see here with 22 the --</p> <p>23 Q. Well, these trees that we see still in the 24 bottom of Politz-343, I'm not a tree expert, and I 25 don't know if you're a tree expert, but they look</p>

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<p>1 like they're old trees, right? I mean, it seems to 2 me, and I've seen these trees all along Highway 90, 3 and they look like they're old, right? 4 A. Oh, they've been there, yes. 5 Q. Yeah, for a long time, and you've been a 6 long time -- 7 A. Sure. 8 Q. -- you've been a long time -- and you 9 lived in Mississippi for a long time, and you know 10 these trees have been -- so when you see a sign of a 11 knot where a broken limb fell off, that could have 12 happened in Hurricane Camille, right? 13 A. I doubt it. It looks like they're a very 14 fresh broken off area to me, but -- 15 Q. And you can see that they're fresh broken 16 damage from these photographs? 17 A. I believe I can. I thought I saw that on 18 a sign, too. That's the reason I labeled them as 19 damaged, and I looked at them when I was walking 20 through them. 21 Q. All right. Now, let's look at the 22 photographs from right after the storm that the 23 plaintiffs gave you. I'm going to hand you -- well, 24 we can look at -- some of them are in your report. 25 Let me see. The quality might be the same as the</p>	<p>1 was a nail on structure to base plates, and I'm 2 assuming it was from roof to top plates as well. 3 You would have to assume that -- 4 Q. Okay. 5 A. -- if you see it on the bottom. 6 Q. Okay. 7 A. I see a lot of glass subject to a lot of 8 breakage from flying debris. These things 9 invariably happen in windstorms like Katrina. 10 Q. Is there anything else other than what you 11 just mentioned that you can look at from these 12 photographs that makes your opinions more likely 13 than not? 14 A. It's a conventionally built house. It was 15 not designed for 135 mile per hour winds, it looks 16 like to me in combination with my inspection of the 17 site, and my view of the pictures we're about to 18 look at that they took immediately at the site, too, 19 after the storm. 20 Q. Okay. So let's turn to the after 21 hurricane photographs in your appendix starting at 22 Politz-350. 23 A. All right. I'm there. 24 Q. Let's -- and just start with the first 25 page, which is 351. What do you see in these</p>
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<p>1 ones we have. We'll just go with the ones in your 2 report for now, and I will show you some others. If 3 you turn to the Appendix B and the photos that begin 4 in that appendix on Politz-346, these first two 5 photographs are what the Politz house looked like 6 before the storm, correct? 7 A. Correct. 8 Q. And -- and what is significant about these 9 photographs for any of the opinions that you reached 10 in your report? 11 A. Well, it just shows the very -- the 12 quality of the house and how it was built. It was a 13 gable structure. It was on a -- a brick and wood 14 sided or else vinyl siding home. The picture you 15 see at -- on the bottom is facing -- that's the 16 front of the house, and that faces north 31 degrees 17 east. That side you're looking at in the top 18 picture is the eastern exposure, east and southeast 19 exposure. 20 Q. Is there anything that you see in these 21 photographs of the Politz residence before the storm 22 that you think make your conclusions more likely 23 than not to be correct? 24 A. In combination with what I saw when I got 25 to the site of the base plates, yes, it's a -- it</p>	<p>1 photographs that you believe makes your conclusions 2 more likely than not to be correct? 3 A. Well, you can see that what's left on the 4 slab. This is the remnants of that wrought iron 5 fence that was on the eastern side, eastern and 6 southeastern side that you see in some of those 7 before storm pictures. On top, the straps, you see 8 are some of them remaining that once were nailed to 9 the studs. They're not close enough up to see the 10 actual base plate nails in that instance. The same 11 thing is true on the bottom of the straps. 12 That's the entrance steps to the main 13 entrance on the northeast side, the view that that's 14 taken from. You do see the damaged trees in the 15 background. If you look at that bottom picture, you 16 can clearly see all the vegetation stripped off of 17 them, various parts of them, broken limbs and so on. 18 Q. Okay. When you say that all of the 19 vegetation is stripped off of them -- 20 A. The leaves. 21 Q. Yeah, I understand what you meant, 22 foliage. The picture at the bottom of 351, there 23 appears to be a sapling planted near the foundation 24 of the house. Do you see what I'm talking about? 25 A. Yes.</p>

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<p>1 Q. And that still has its leaves on it, 2 correct?</p> <p>3 A. Yes, it's a little -- I don't know what it 4 is, but it does appear to have some dead vegetation 5 on it.</p> <p>6 Q. Similarly, if you turn to Politz-352, 7 there's a large tree in the background that appears 8 to have its -- on the left side, that still has its 9 leaves on it, correct?</p> <p>10 A. Some, yes, it does.</p> <p>11 Q. And when you turn to --</p> <p>12 A. And if you will ask me the same question 13 about that one, I will tell you some more that this 14 picture shows that we discussed already today.</p> <p>15 Q. All right. I'd like to hear what you 16 think is significant about any of the photos that 17 you include in your report.</p> <p>18 A. Well, in the -- I guess it's 352. Yeah, 19 352, you see the stud, broken off stud there, the 20 remains on the slab? You see that?</p> <p>21 Q. Yes.</p> <p>22 A. You see it's nailed in. That one broke 23 off before it could pull loose. You go down the 24 line to -- there's another stub of a slab -- of a 25 two by four stud that broke off, and you go on down</p>	<p>1 proved by a multitude of experts.</p> <p>2 Q. And those are all meteorological opinions 3 that you just --</p> <p>4 A. Well, of course, and I've researched.</p> <p>5 Q. And I understand you researched and 6 believe that you are applying what you think are the 7 meteorological conditions of this property. My 8 question really was just to confirm that the storm 9 surge would have been sufficient to cause the 10 destruction we see in this picture to these broken 11 studs, correct?</p> <p>12 A. Yeah, and I'm certain I said that in my 13 report, too --</p> <p>14 Q. Okay.</p> <p>15 A. -- so we don't have to belabor that. I've 16 admitted that, of course.</p> <p>17 Q. And the -- and I agree, you have admitted 18 that, and I don't mean to belabor it. I'm not 19 trying to unnecessarily prolong this deposition, but 20 I just want to make -- I just want to understand. 21 You've taking these photographs because you think 22 they show something that's important to your 23 conclusions, right?</p> <p>24 A. Certainly.</p> <p>25 Q. Okay. And what I'm trying to understand</p>
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<p>1 the line, there's another one down towards the end 2 of that line that's broke off, so that's the 3 significance to show that not only did you have the 4 attachment pull outs, but you had actually broken 5 studs, which I demonstrate in my calculations would 6 occur for these kind of winds.</p> <p>7 Q. Okay. And again, the break -- the broken 8 studs that we see in the bottom of Politz-352, that 9 had been caused by the storm surge, again, in a 10 vacuum, correct, Mr. Biddy?</p> <p>11 A. If you think there is such an impossible 12 thing, yes.</p> <p>13 Q. Well, and just to be clear, when you say 14 it's an impossible thing, you mean because you think 15 that the wind destroyed the Politz house would have 16 done this damage prior to the storm surge inundating 17 the property, that's what you mean, correct?</p> <p>18 A. Well, it's a scientific fact that storms 19 in this hemisphere rotate in a counterclockwise 20 direction around the center eye and have outer 21 bands, and I've seen many Doppler radar record 22 pictures of those outer bands, which some people are 23 calling a replacement eyewall where you have another 24 eyewall formed, but it's certain those winds 25 occurred before the high water got here and that's</p>	<p>1 is if the storm surge could have caused the same 2 destruction, what's important about these 3 photographs?</p> <p>4 A. Oh, well, it shows the destruction and 5 given the proven fact that the sequence of the storm 6 was such that high winds occurred at least three 7 hours ahead of the high water, therefore, it had to 8 be -- based on my calculations, it had to be 9 destroyed by the winds, and it just shows the 10 evidence of the destruction.</p> <p>11 Q. Right. It's fair to say your opinions 12 hinge on timing. These photographs don't show 13 anything about the timing of water versus storm 14 surge -- or water versus wind, correct?</p> <p>15 A. That's correct.</p> <p>16 Q. It -- they show that the property was 17 destroyed after Hurricane Katrina, correct?</p> <p>18 A. Of course, they do.</p> <p>19 Q. Okay. And that's important in and of 20 itself, right?</p> <p>21 A. And it shows the mechanism of destruction, 22 too, which fits perfectly with everything I've 23 analyzed.</p> <p>24 Q. And we'll talk about the mechanisms that 25 you describe in your report. When you're referring</p>

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<p>1 to mechanisms, you're referring not to the cause, 2 but to the actual way in which -- 3 A. It failed. 4 Q. -- the studs failed? 5 A. That's correct. 6 Q. So these -- the photograph, it's important 7 that it shows that the property itself was destroyed 8 after Hurricane Katrina, right? 9 A. That's certainly important. 10 Q. And that's important to make sure because 11 you've reached the conclusion that the winds would 12 have blown the house away before the storm surge got 13 there, correct? 14 A. Yes, but as you can see in the pictures, 15 as we've discussed earlier, there were, you know, 16 things there that -- that were left after the water 17 that obviously were destroyed by the water later. 18 Q. Well -- 19 A. Behind -- 20 Q. -- tell me what you're talking about -- 21 A. Well -- 22 Q. -- on Politz-352. 23 A. -- for instance, that -- whatever that is 24 behind Mrs. Politz on the slab there was obviously 25 not blown away subject to all of this water coming</p>	<p>1 Q. Okay. I think I -- I thought you were 2 talking about the bottom photograph. The things 3 that we see in the top photograph, that's debris and 4 remains of the house and its contents, correct? 5 A. That is correct. 6 Q. Okay. And you -- you say that -- that 7 these things obviously were not blown away by the 8 wind, but were rather damaged by the storm surge. 9 Is that what you were trying to explain to me? 10 A. That's correct, and -- 11 Q. And I guess, could you explain your basis 12 for reaching that conclusion about this photograph, 13 I mean, other than the fact that they're just still 14 sitting there? I mean -- 15 A. They're there. 16 Q. But, again, I'm not trying to be 17 difficult. I just want to, you know, make sure that 18 we're on the same page here, Mr. Biddy. 19 A. They're there. 20 Q. So the fact that you see some debris that 21 has essentially collapsed and is sitting on the site 22 of where the house -- or the Politz property was, in 23 your opinion, that shows that some of that damage 24 was -- that was storm surge not blown away by wind. 25 Is that what you're saying?</p>
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<p>1 in. 2 Q. So in other words, the -- what we see -- 3 well, I'm not sure I know -- I follow what you're 4 saying, Mr. Biddy. All that that is behind the 5 slab, you're referring to the trees that are still 6 standing? 7 A. No, no, I'm not. 8 Q. Are you referring to the debris behind it? 9 A. I'm referring to the top picture behind 10 where she's sitting. 11 Q. Uh-huh. 12 A. There is something there that -- that 13 obviously got the effects of the sea water as well 14 as the earlier winds, but it stayed there, 15 obviously, from the earlier winds. I can't identify 16 what that is to tell you the truth. 17 Q. I'm -- I'm not trying to be difficult. I 18 just -- I don't -- I'm not sure I know what you're 19 talking about in the photo. Can you maybe point to 20 -- hold up the photo and point for the videographer 21 what it is? You're saying things -- 22 A. (Indicating.) 23 Q. Oh, you're talking about the top 24 photograph? 25 A. Yeah.</p>	<p>1 A. And this is typical debris that's left 2 after the storm surge subsided. It's the heavy 3 metal stuff, which that object in the -- behind her 4 obviously is, and the brick work, things of that 5 sort. Now, other things like furniture that might 6 have been left there or any wood would have washed 7 away with the later arriving storm surge. 8 Q. Okay. Well, the -- the brick work -- the 9 brick work, it's brick veneer, right, on the house? 10 A. Partial, yes. 11 Q. Okay, partial, right. So the bricks we 12 see, that would be kind of outside attached to the 13 stud frame, right? 14 A. That's correct. 15 Q. Okay. So I guess my -- my question is: 16 Is your testimony that the bricks which have 17 collapsed, and they're still remaining on the site, 18 would have been damaged by the storm surge, but the 19 studs framing them were blown away by the house -- 20 by winds? Is that what these photographs show, 21 Mr. Biddy? 22 A. No. 23 Q. Okay. Can you explain what -- what you're 24 trying to convey in our discussion of these 25 photographs?</p>

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<p>1 A. I said typically this is the kind of 2 debris that's left after the storm surge subsides 3 because the storm surge cannot float a brick, for 4 instance. When the walls themselves were blown in, 5 attachment failures, all of the brick veneer which 6 is just attached lightly to the outside of the brick 7 homes has no real structural strength in it. When 8 it's just veneer, it just falls down unless it's 9 attached to something that's got some areas so the 10 wind can get it. It doesn't fly away. Most of the 11 time you see it, it's around the perimeter of the 12 slab that's left, and the water was not -- cannot 13 float brick and take them away, so that's what you 14 see left. Do you want to go on to the next picture 15 now?</p> <p>16 Q. Yeah, if you want to -- the next picture, 17 it's Politz-353, 353, the next two photos.</p> <p>18 A. Yeah.</p> <p>19 Q. On the top photograph, what's the 20 significance of that photograph?</p> <p>21 A. Well, again, we're seeing stubs of studs 22 that were broken off. Of course, we do see the 23 address of it, that 116 Winters Lane. We see the 24 fallen down brick veneer around the edge of it on 25 the south side. The bottom picture gives you one</p>	<p>1 and the little pieces of the bottom of the studs. I 2 frankly don't know what automobile this was that was 3 destroyed in the storm. Obviously, there's an 4 automobile there that's been very badly just damaged 5 or destroyed.</p> <p>6 Q. Do you have any opinion as to whether the 7 storm surge or the wind caused the damage to that 8 car back then?</p> <p>9 A. If it was in the garage, and I have to 10 caveat it that way, then it would have been very 11 heavily damaged or destroyed as the house blew away.</p> <p>12 Q. Because the debris from the house --</p> <p>13 A. Yeah.</p> <p>14 Q. -- would have collapsed on it?</p> <p>15 A. Yeah.</p> <p>16 Q. Right. Well, and in fairness, you know, 17 if it was in the garage, no matter what destroyed 18 the house, it could be damaged, right?</p> <p>19 A. Well, that's true.</p> <p>20 Q. Okay. Well, if it's not on -- not in the 21 garage, and I'm not sure you can really tell exactly 22 where it is or how it got there, for instance, but I 23 just -- just want to know, you took a picture of it. 24 Is there anything you can tell from that?</p> <p>25 A. I didn't -- I didn't take that picture.</p>
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<p>1 example of a twisted off tree that's just the stump 2 left. If you notice right behind the fire hydrant, 3 you'll see that.</p> <p>4 Q. And that stump that's showing on 5 Politz-353, that's broken off right at the bottom, 6 right?</p> <p>7 A. No, it looks like about a foot-and-a-half, 8 two feet above it.</p> <p>9 Q. And that would have been inundated by the 10 storm surge?</p> <p>11 A. Oh, yes, later.</p> <p>12 Q. Yeah. Well, it's fair to say just looking 13 at from this photograph that a tree broken off on 14 the ground that was inundated by storm surge and 15 impacted by debris, we can't tell if that tree was 16 broken by wind or storm surge, correct?</p> <p>17 A. I didn't analyze the tree from a 18 structural standpoint, no.</p> <p>19 Q. Okay. Is that a correct, yes?</p> <p>20 A. Yes, you are correct.</p> <p>21 Q. Okay. Politz-354, is there anything of 22 significance in these photographs?</p> <p>23 A. Well, again, the top one we're looking at 24 the same things, the remnants that were left after 25 the storm surge subsides plus the broken off studs</p>	<p>1 Q. I apologize. You're right, Mr. Biddy, 2 these were from -- these were being furnished from 3 Mr. and Mrs. Politz.</p> <p>4 A. Some instances, I can't possibly identify 5 the location and that's one of them.</p> <p>6 Q. Okay. And there are pages and pages of 7 photographs. Is there anything in the remaining 8 photographs that show something that we haven't 9 discussed that these earlier photographs show that 10 are of significance to your report?</p> <p>11 A. Well, the general nature of the same type 12 of destruction all around the building, I think is 13 important from a standpoint of it fits my proven 14 mechanisms of destruction. Obviously, most of it is 15 cumulative. I was here right after the storm. It 16 looks very typical of most of the destroyed homes I 17 examined right after the storm.</p> <p>18 Q. When you say you were here, where, in this 19 neighborhood?</p> <p>20 A. Yes, I came the first time September 10th. 21 That would be 12 days after the storm, and I've been 22 here off and on ever since doing reports.</p> <p>23 Q. Well, I -- I -- not the Gulf Coast, I'm 24 sorry, Mr. Biddy. My question was when you say 25 here, the -- I think you had testified earlier you</p>

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<p>1 didn't -- you had gone to a -- some kind of store 2 that might have been up by Highway 90, but have you 3 been to the -- have you driven through this 4 neighborhood before? 5 A. Oh, yeah. Specifically this property? 6 Q. That's what I meant. I'm sorry. I meant 7 this neighborhood, not -- 8 A. No, I testified earlier that I had been 9 through this area and saw the devastation -- 10 Q. Uh-huh. 11 A. -- but I didn't specifically go to this 12 property. 13 Q. Okay. Now, if you can turn -- there's one 14 photo I wanted to ask you a question about, and this 15 is Politz-384, if you turn to that one. 16 A. 384? 17 Q. Uh-huh. 18 A. Okay, I'm there. 19 Q. Now, you see in the top photograph, and 20 this is one of the photographs that Mr. and 21 Mrs. Politz took, there is a -- a neighboring house, 22 and we don't know exactly how close it is to their 23 property, but it's a neighboring house that they 24 took a picture of that is still standing; isn't that 25 correct, Mr. Biddy?</p>	<p>1 you could find this house when you went to visit 2 their property; is that correct? 3 A. I did not. 4 Q. Now, a house that's still standing in the 5 neighborhood could have some information from a 6 comparative standpoint, right, Mr. Biddy? 7 A. Had I been there right after the storm, I 8 would have certainly looked at it. 9 Q. Okay. Right. It could tell you how the 10 houses in the neighborhood were constructed? 11 A. Sure. 12 Q. It could also, since it's still standing, 13 show signs of wind damage that are visible in the 14 remaining structure, correct? 15 A. Yes, and/or water damage. 16 Q. Right. It could show a water line to see 17 how high the water reached in the property, correct? 18 A. Yeah, this is an example, as I testified 19 to earlier, of many homes that I inspected and wrote 20 reports on that were simply opened up on the 21 windward side and blown out on the leeward side, 22 therefore, leaving all the pressure on the walls, 23 and it just became a wind tunnel, and the winds just 24 blew through it for three hours and destroyed 25 whatever they could before the water got there, and</p>
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<p>1 A. Yes, it is. 2 Q. Okay. And then the trees around it are 3 also still standing? 4 A. Denuded, but yes, standing. 5 Q. Partially, I mean, some have leaves, some 6 don't, correct? 7 A. I see a few leaves, yes. 8 Q. Did you -- is there anything of 9 significance that this photograph shows? I believe 10 this is the only photograph that shows a standing 11 house in any of the photographs that we've looked at 12 so far immediately after the storm in their 13 neighborhood, correct? 14 A. Yeah, it is, and I didn't take any closeup 15 pictures of it so... 16 Q. And I know this isn't a photograph that 17 you took. Did you -- when you went to their 18 property in 2008, did you look to see if that house 19 was present in the neighborhood? 20 A. There had been a couple of houses a block 21 away or so that had been built, rebuilt, but 22 surrounding this particular slab, it was just slabs 23 here adjacent. All of the adjacent areas were just 24 total destruction as of yesterday. 25 Q. And you didn't look to see specifically if</p>	<p>1 then the water did its -- whatever it did to the 2 house. 3 Q. I understand that you testified about 4 that, apparently, in other reports. I haven't seen 5 those reports, but -- but talking specifically about 6 this house, I mean, the photo here doesn't show 7 that, right? I mean -- 8 A. No, you can't see enough detail. 9 Q. No, and that's my point only. You have no 10 idea if this house was opened up and became a wind 11 tunnel as you just described, correct? 12 A. No, I don't. 13 Q. Okay. 14 A. But I would assume it did. And if you 15 want me to elaborate on that, I will. 16 Q. Well, I'm going to venture a guess that 17 the reason you assume it did is because you think 18 the same winds and forces and sequence would have 19 applied to the houses throughout the general 20 vicinity of their -- 21 A. No, that's not quite true. 22 Q. Okay. Well, then-- 23 A. The rest of that is it had to be opened 24 up, otherwise the walls of the water as it got high, 25 if it was a closed structure, it would have</p>

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<p>1 destroyed the walls of the house, and it would have 2 been a destroyed house by the water. Water is so 3 much heavier than, as you are saying, in a vacuum, 4 if it comes without any wind, then certainly 5 these -- these heights of water are going to crush 6 ordinary residential walls of houses. These would 7 have been crushed down had it not been opened up 8 already. And that -- what I mean by opened up, it 9 allows the waters to come in all sides of all walls 10 with equal height, and therefore, equal hydraulic 11 pressure, and it does not tear them down and that's 12 the importance and the proof that it had to be 13 opened up. 14 Q. Well, that's true, Mr. Biddy, only if that 15 house was inundated by the storm surge, correct? 16 A. True. 17 Q. I mean, if it was at a ground elevation 18 that was above any kind of significant storm surge, 19 that -- the phenomenon you just described would not 20 necessarily be true at all? 21 A. Well, that's true. 22 Q. And in fact, did you observe on your visit 23 in the neighborhood or at any time whether houses at 24 higher elevations above the storm surge were more 25 likely than not to be still standing after Hurricane</p>	<p>1 each one. You can't generalize if you're having to 2 do that. 3 Q. Well, I don't like you to -- I'm not 4 asking you to generalize, but I do want to 5 understand if you have a neighborhood -- if we're 6 looking at the neighborhood where the Politzes 7 lived, where would you -- I guess, how -- how far -- 8 I mean, you would expect the same meteorological 9 conditions that you were relying on in your report 10 to be present within a certain vicinity, correct? 11 A. Sure. 12 Q. And that -- and that would be, given the 13 size of the storm, pretty -- pretty extensive? 14 A. Sure. 15 Q. And I've seen a number of your reports, 16 Mr. Biddy, and the 125 to 135 miles per hour wind 17 range, that's present in a lot of areas throughout 18 the Coast? I mean -- 19 A. Yeah. 20 Q. And you wouldn't expect -- you would 21 expect similar constructed houses to show the same 22 patterns of destruction as the Politz's within 23 that -- subject to the same meteorological 24 conditions; is that correct? 25 A. I would expect it to be true, but I always</p>
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<p>1 Katrina? 2 A. In this area, it did not happen. They 3 were all -- all surrounding houses to this house 4 were destroyed. 5 Q. Okay. 6 A. Now, this one is -- I don't know which 7 direction they were taking that picture, and I don't 8 know where that house was, but obviously, that's a 9 house in the neighborhood that some part of it 10 stood, and we don't know the extent of opening or 11 anything else because we don't have a good enough 12 picture. 13 Q. When you said all of the houses in the 14 neighborhood were destroyed, is it your view that 15 they would have experienced the same kind of process 16 of destruction that you described in your report for 17 the Politz residence? 18 A. It depends on how they were built, of 19 course. If you had two by six studs or even bigger, 20 heavier framing, perhaps the studs would not have 21 broken in many. If you had each stud with the 22 hurricane anchors on them, perhaps they would not 23 have turned loose if they were screwed in rather 24 than nailed in, as we all we do now on everything, 25 perhaps it would have stood. You have to examine</p>	<p>1 have to find mechanisms of destructions before I can 2 be certain from an engineering standpoint of what 3 happened. 4 Q. That's fair, and I think that is what 5 anyone would expect, but it's fair to say that if 6 houses that had similar design features that you 7 described the Politz property having that were 8 subject to the same meteorological conditions, 9 particularly the wind, would likely have suffered 10 the same fate as the Politz residence? 11 A. Oh, absolutely, yes. 12 Q. Okay. And that, you think, is broadly 13 true throughout the Gulf Coast region, certainly 14 without -- throughout the Long Beach area where we 15 are here? 16 A. That's a general statement you can make. 17 I have seen vast subdivisions with just slab after 18 slab after slab that I've done half a dozen detailed 19 inspections of, and they all show the same things, 20 either the pull outs or the stud failures, one of 21 the two. 22 Q. I want to show you Defense Exhibit 37. 23 (Exhibit 37 marked for identification.) 24 Q. (By Mr. Gilmore) Specifically if you 25 could turn to -- it's marked as Figure 2 in the</p>

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<p>1 report. It's pretty early on. It's not -- I think 2 it's in the first appendix of materials right after 3 the signature of the report. I'll represent to you 4 this is a report prepared by Kevin Kennedy & 5 Associates. 6 A. What page is the signature page? 7 Q. If you -- 8 A. Does it have a page number? 9 Q. Well, the signature page is shortly after 10 that. 11 A. I see. 12 Q. That page you have right there. 13 A. Okay. 14 Q. Okay. It's -- so you recognize that it's 15 entitled "Aerial View of Hurricane Katrina Damage 16 near the Politz site." Have you ever seen an aerial 17 image, a satellite image, for instance, that shows 18 the Politz property, their neighborhood? 19 A. I've seen the ones that Mr. Calaci has in 20 his report only. 21 Q. Uh-huh. Well, you worked on the Schmerman 22 case as well. They were also in Long Beach, I 23 believe, right? 24 A. Either that or Gulfport, I've forgot. 25 Q. I believe Long Beach.</p>	<p>1 Q. For the most part, you saw for yourself 2 that from -- this whole area that's shown in this 3 photograph towards the coast were just slabs for the 4 most part? 5 A. Yes. 6 Q. Okay. North of the debris swath, you see 7 intact buildings, correct? 8 A. Well, I see a few. I see, you know, a 9 few, like I say, that I can identify as still 10 standing. 11 Q. Uh-huh. And -- and you can see -- and 12 given that this is a satellite image, but you can at 13 least see that the roofs are visible in the 14 buildings north of the debris swath, correct? 15 A. Well, as I say, a view. How many of those 16 are slabs I'm looking at, I would bet that there 17 were a lot of them, but I'd just have to look at it, 18 of course. 19 Q. Okay. Right. Well, in the -- the houses 20 that are actually north in this photograph, at 21 least, and, you know, I'm not representing this is 22 the entire coast obviously, but in this photograph, 23 at least, you would agree that the houses in the 24 north and the kind of upper left quarter of this 25 photograph above the debris swath, you can still see</p>
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<p>1 A. If could have been. 2 Q. And do you recall seeing overhead photos 3 in that case? 4 A. Yes. 5 Q. Uh-huh. And this photograph shows a 6 debris swath, correct? 7 A. That's correct. 8 Q. Okay. And that debris swath basically 9 parallels the coast in this picture; is that 10 correct? 11 A. Yes, it does, and it's obviously the point 12 of the high -- where the high water extended when it 13 met land and couldn't float it any further, and it 14 just dumped it at that spot. 15 Q. And if you look from the south -- to the 16 south, all of the houses there are destroyed, 17 correct? 18 A. Yes, they are. 19 Q. Yeah, and that's consistent with what you 20 saw when you went to the Politz site even in 2008, 21 right? 22 A. That is correct. 23 Q. With the exception of a few houses that 24 had been rebuilt totally, obviously? 25 A. A few, but not any adjacent ones.</p>	<p>1 their roofs whereas the houses to the south of the 2 debris swath appear to be slabs; is that correct, 3 Mr. Biddy? 4 A. There are some houses to the north with 5 the roofs. I assume you mean a blue where they put 6 the blue tarp on already. Is that what you're 7 referring to as roofs intact in the top left-hand 8 corner? 9 Q. Well, they're -- whether they have some 10 kind of damage, and if those are tarps or not, the 11 houses are still standing, let's put it that way, 12 otherwise you wouldn't have a tarp to put on it. 13 A. It appears that there are a few, yes. 14 Q. Okay. 15 A. I can count one, two, three, four, five, 16 six, seven with blue tarps on them. 17 Q. And even kind of further looking at the 18 very top, if you want to hold the photograph up, you 19 can -- you can take that apart, that photo apart, 20 and just hold that photograph up just so the 21 videographer can zoom in on what we're talking about 22 here. 23 A. (Witness complies.) 24 Q. And can -- the houses that you've just 25 referenced that appear to have -- still standing</p>

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<p>1 that have tarps on them, perhaps the blue, can you 2 point those -- just point your finger on them so we 3 all understand what we're talking about visually? 4 A. They're in the -- as you look at the 5 picture, the upper left-hand corner, which would be 6 the northwest corner of the photograph. 7 Q. You see this also shows the Politz site, 8 right? 9 A. Yes, it does. 10 Q. And again, given it's at a distance above 11 the earth, but does that fit with your understanding 12 based on looking at Google maps and having been to 13 the site, that's -- 14 A. And the survey, yes -- 15 Q. Okay. 16 A. -- which was in that curve, that's 17 correct. 18 Q. It's in the curve on that Winters Lane 19 Road, correct? 20 A. It is. 21 Q. And the figures approximately 190 yards to 22 approximately 400 yards -- approximately 190 yards 23 from the coast to the Politz site, you have no 24 reason to doubt that is basically accurate, right? 25 A. No, it's approximately, what, 5 -- 550</p>	<p>1 says was the condition of the property after 2 Hurricane Katrina, that would be a problem for the 3 expert's testimony; wouldn't you agree? 4 A. I would say so, yes. 5 Q. Have you seen a tornado do damage to 6 properties? 7 A. Yes. 8 Q. Have you seen the aftermath? 9 A. Yes. 10 Q. Okay. Let me show you -- you might have 11 already seen this photograph in a prior deposition. 12 I just -- I can't recall off the top of my head, and 13 I'll just ask you real quickly about it. That's 14 Defense Exhibit 162. 15 (Exhibit 162 marked for identification.) 16 Q. (By Mr. Gilmore) This is a photograph of 17 a picture in Greensburg, Kansas after a devastating 18 tornado according to the caption from the Sun 19 Herald, and you must have seen the Wizard of Oz, and 20 know Kansas gets tornadoes, right? 21 A. Of course. 22 Q. And you -- you would agree that this 23 photograph shows damage consistent with a tornado, 24 right? 25 A. It does.</p>
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<p>1 feet or so, 600 feet. 2 Q. About 600 feet. 3 A. That's about what I testified to is my 4 best estimate. 5 Q. I believe so. And then 400 yards to the 6 debris swath north of the Politz site, which would 7 be about 1200 feet, I don't know if you have any 8 basis to know whether or not that's accurate, but 9 you don't have any basis to think that's inaccurate, 10 right? 11 A. I don't know either way, but I assume it 12 is accurate. 13 Q. Okay. 14 A. They measured that accurately. 15 Q. You can put that down. We've looked at a 16 lot of photographs. One of the reasons that it's 17 important to look at the photographs of the 18 property -- the condition of the property after 19 Hurricane Katrina is to make sure that it's 20 consistent with how you describe it in your report, 21 right? 22 A. Absolutely. 23 Q. And if there's any inconsistency between 24 what the photographs show and the post-Katrina 25 condition of the property versus what any expert</p>	<p>1 Q. A very damaging tornado. 2 A. I have seen this picture, and I've seen 3 others at this same location for the whole swath of 4 the tornado. 5 Q. And all -- all the trees appear to be 6 snapped off at the top, right? It looks like 7 someone just come in and chopped them off? 8 A. The ones that are still standing are 9 completely denuded. 10 Q. Uh-huh. There are no canapes left on any 11 of the trees I can see in this photograph, right? 12 A. Well, tornadoes with super cells in Kansas 13 have winds of over 200 miles per hour. 14 Q. In the bottom right corner, you see a 15 house that's still standing, correct? 16 A. Yes, of sorts, that's damaged. 17 Q. It's severely damaged and the roof has 18 been -- it looks like it's essentially been caved in 19 or crushed, correct? 20 A. Yes. 21 Q. And looking at that pattern of damage, you 22 would agree that the tree -- and you can hold this 23 picture up for the camera -- the house that's shown 24 in the bottom right, that shows a pattern damage 25 that you would think is representative of high wind</p>

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<p>1 or tornado damage, correct?</p> <p>2 A. Well, a tornado, yes, except if you will</p> <p>3 look at the pictures, and I have seen them of this</p> <p>4 entire swath, you -- you see houses still standing</p> <p>5 like this one or less damage sometimes and total</p> <p>6 devastation in some swaths. Wind in a -- in an</p> <p>7 erratic tornado or downburst or other mini burst or</p> <p>8 other phenomena are in an erratic pattern. You just</p> <p>9 don't get a straight wind like so, you know, just</p> <p>10 straight swath. You get a -- kind of a jagged path,</p> <p>11 and it will completely destroy here, and it may</p> <p>12 leave a house right beside it basically intact.</p> <p>13 I've seen that many times.</p> <p>14 Q. It's fair to say that the swath of damage</p> <p>15 that you see all along the coast, and particularly</p> <p>16 in the aerial photograph that we just saw of the</p> <p>17 Sanders -- of the Politz house, pardon me, is just a</p> <p>18 big swath of damage, right? Everything south of</p> <p>19 that debris line we saw was completely destroyed,</p> <p>20 correct?</p> <p>21 A. In that particular area.</p> <p>22 Q. Turning back to your report, Defense</p> <p>23 Exhibit 42.</p> <p>24 A. Page number?</p> <p>25 Q. On Politz-321.</p>	<p>1 or two away, just a whole roof sitting there. It's</p> <p>2 damaged, but it's sitting there, and it's clearly</p> <p>3 identifiable as a roof, and in this case, it was</p> <p>4 not.</p> <p>5 Q. So I'm clear, the presence or absence of a</p> <p>6 large portion of intact roof near the property, does</p> <p>7 that tell us one thing or another about whether wind</p> <p>8 caused the destruction to the property?</p> <p>9 A. No, I don't think it does. I think had it</p> <p>10 been water, I think the whole structure would have</p> <p>11 been crushed down on the site. The wall -- if a --</p> <p>12 if it had been a closed structure without any</p> <p>13 breakage or openings in the house, it's no question</p> <p>14 that the water would have crushed the building down,</p> <p>15 and how much of that would have been washed away</p> <p>16 then, I don't know. Many times you can see crushed</p> <p>17 down structures that were obviously in very, very</p> <p>18 low lying areas that were crushed by water.</p> <p>19 Q. And you then go on to say at the bottom of</p> <p>20 Politz-321, "If the roof structure of the house and</p> <p>21 attached garage do not blow away first, then it's</p> <p>22 certain that the entire structure blew away in the</p> <p>23 early winds of the storm due to the inadequate</p> <p>24 anchorage of the bottoms of walls to the base</p> <p>25 plates."</p>
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<p>1 A. All right, I'm there.</p> <p>2 Q. You describe in the third paragraph down</p> <p>3 that begins, "The most probable sequence of failure</p> <p>4 of the structure occurred as follows."</p> <p>5 A. Okay.</p> <p>6 Q. And in there, you -- you -- it's your</p> <p>7 opinion that, "The most probable sequence of failure</p> <p>8 is that the roof structure pulled free" -- pardon me</p> <p>9 -- "the roof structure pulled free from the nailed</p> <p>10 connections from -- the wind would have caused the</p> <p>11 roof structure to pull free from the nailed</p> <p>12 connections and to rise up and fly away as an</p> <p>13 airfoil due to both the positive forces on the</p> <p>14 windward sides of the structure and the negative</p> <p>15 outward and upward wind forces on the lee sides of</p> <p>16 the structure."</p> <p>17 A. That's correct.</p> <p>18 Q. From the photographs that we've looked at</p> <p>19 post-Katrina taken by the plaintiffs, you weren't</p> <p>20 able to identify any remaining portions of the roof</p> <p>21 structure, were you?</p> <p>22 A. No, I was not. It's usually taken to</p> <p>23 foreign distance places, and it usually</p> <p>24 disintegrates in pieces if it's winds that strong.</p> <p>25 Sometimes you find a whole roof that will be a block</p>	<p>1 A. That's correct.</p> <p>2 Q. Do you have an opinion -- well, does the</p> <p>3 evidence, the photographic evidence of the debris</p> <p>4 and the remains of the property, tell you one way or</p> <p>5 the other which of these two scenarios is more</p> <p>6 likely?</p> <p>7 A. It's my opinion, and I've stated the most</p> <p>8 probable sequence is that the roof attachments</p> <p>9 pulled free. That's -- I had to, of course, assume</p> <p>10 that the same type of attachments that existed on</p> <p>11 the studs to the bottom base plate existed from the</p> <p>12 studs to the top base plates.</p> <p>13 Q. Is that assumption borne out by</p> <p>14 inspections of standing losses?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 A. It's just a general assumption that</p> <p>18 construction is usually consistent with that.</p> <p>19 Q. And if you turn to Politz-325, it's the</p> <p>20 section of your report where you discuss how</p> <p>21 elements of the design of the house might be failed,</p> <p>22 correct.</p> <p>23 A. Yes. It discusses wind loadings on --</p> <p>24 from storms on various elements of the house and</p> <p>25 mechanisms of destruction that I have seen</p>

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<p>1 predominantly along the coast.</p> <p>2 Q. And we talked about a number of these</p> <p>3 already, Mr. Biddy. In interest of not belaboring</p> <p>4 the point as you had said, I'm just going to ask you</p> <p>5 a general question. The phenomenon that you</p> <p>6 described here in terms of how the design failed,</p> <p>7 these failures could have happened from storm surge</p> <p>8 in a vacuum, again, putting aside your views as to</p> <p>9 the sequence and timing of wind versus water,</p> <p>10 correct?</p> <p>11 A. If you know the truth of the winds coming</p> <p>12 first, yes, that's true. If the waters had come</p> <p>13 first, it could have destroyed those walls, of</p> <p>14 course, it's over nine feet of water.</p> <p>15 Q. Okay. And each of these design</p> <p>16 failures -- well --</p> <p>17 A. No, not design.</p> <p>18 Q. I'm sorry. I --</p> <p>19 A. Mechanisms of destruction.</p> <p>20 Q. Each of these -- I'll use your term,</p> <p>21 that's more accurate, you're the engineer. Each of</p> <p>22 these mechanisms of destruction that you lay out</p> <p>23 here, there's nothing in the physical evidence</p> <p>24 showing these mechanisms to the extent there is any</p> <p>25 that makes it more likely than not that wind versus</p>	<p>1 A. I didn't know that, but that's one spot.</p> <p>2 Q. Okay.</p> <p>3 A. There's a multitude of other spots that</p> <p>4 are, in fact, right there close in Pascagoula that's</p> <p>5 read anywhere from 125 miles an hour that was</p> <p>6 reported by telephone to the New Orleans Weather</p> <p>7 Bureau, and then the later readings of 137 and 140</p> <p>8 miles an hour before the towers blew down.</p> <p>9 Q. And in fairness, the equipment that</p> <p>10 stopped working malfunctioned because of the damage</p> <p>11 from the storm, right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. The other anemometer that kept</p> <p>14 working besides the Ingalls anemometer was the one</p> <p>15 that the Hurricane Katrina Deployment Survey Group</p> <p>16 from Texas Tech Hurricane Research Team was</p> <p>17 monitoring that was at Stennis Airport, right?</p> <p>18 A. Eight miles inshore from the coastline,</p> <p>19 yes.</p> <p>20 Q. And that's right, that was inland. And</p> <p>21 you might have been asked this before during</p> <p>22 depositions, but are you aware or maybe you're aware</p> <p>23 now that those Texas Tech researchers were staying</p> <p>24 at a hotel in Gautier. Did you know that?</p> <p>25 A. I understood that, yes.</p>
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<p>1 water caused the damage, correct?</p> <p>2 A. Well, as I said in my report, it's</p> <p>3 absolutely crucial that you know the sequence of the</p> <p>4 winds and the water in order to identify what</p> <p>5 caused -- what forces were on the building first.</p> <p>6 VIDEOGRAPHER: Two minutes.</p> <p>7 MR. GILMORE: Let's take a break.</p> <p>8 VIDEOGRAPHER: Off the record at 2:09.</p> <p>9 End of tape four.</p> <p>10 (Off the record.)</p> <p>11 VIDEOGRAPHER: Beginning tape five. On</p> <p>12 the record at 2:17.</p> <p>13 Q. (By Mr. Gilmore) Mr. Biddy, we talked a</p> <p>14 little bit previously during the deposition about</p> <p>15 the data from Ingalls Shipyard anemometer. Are you</p> <p>16 aware that the highest one minute sustained wind</p> <p>17 speeds measured during Hurricane Katrina at the</p> <p>18 Ingalls Shipyard was 87 miles per hour?</p> <p>19 A. I had heard that, yes.</p> <p>20 Q. Okay. And that the highest gust measured</p> <p>21 at the Ingalls Shipyard was 117 miles per hour?</p> <p>22 A. I had heard that, yeah.</p> <p>23 Q. And do you know that the Ingalls</p> <p>24 anemometer measured that highest gust speed only</p> <p>25 twice during the entire storm?</p>	<p>1 Q. Yeah. And you -- you might also have</p> <p>2 heard that they estimated, based on their experience</p> <p>3 staying -- riding out the storm in Gautier, the</p> <p>4 meteorologists estimated that the strong tropical</p> <p>5 storm sustained wind speeds with gusts of Category 1</p> <p>6 suggested sustained one minute wind speed to 65 to</p> <p>7 70 miles per hour. That's from the Texas Tech</p> <p>8 report. I can show it to you if you'd like.</p> <p>9 A. Yeah, I've read that. These are graduate</p> <p>10 students that are doing this for their research</p> <p>11 project. They are not meteorologists of</p> <p>12 long-standing experience. The great weight of the</p> <p>13 evidence by the meteorologists who have done these</p> <p>14 studies, and I've named a bunch of them. I can go</p> <p>15 back through them if you'd like.</p> <p>16 Q. There's no need. You've identified who</p> <p>17 they are.</p> <p>18 A. Come up with totally different</p> <p>19 conclusions.</p> <p>20 Q. Okay. In fairness -- well, in fairness,</p> <p>21 so far as you know, the Texas Tech meteorologists,</p> <p>22 you might call -- you want to call them grad</p> <p>23 students. I'm not sure their status, but they</p> <p>24 obviously were researching and prepared a report on</p> <p>25 Hurricane Katrina, but so far as you know, they</p>

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<p>1 haven't provided litigation reports in any Hurricane 2 Katrina cases, right?</p> <p>3 A. I don't know of any that they've provided.</p> <p>4 Q. Okay. They also stated in their report 5 that there was little evidence of significant wind 6 damage to residential structures near their team's 7 location in Gautier. You've read that as well?</p> <p>8 A. I have read it, and I think it's a very 9 foolish statement.</p> <p>10 Q. Okay. In fact, you prepared a report for 11 a property in Gautier, the Sanders property at 408 12 Graveline Drive, right?</p> <p>13 A. I've prepared several properties. That's 14 one of them, yes.</p> <p>15 Q. I know that one because that's a case that 16 I've worked on as has the Denham Law Firm here. And 17 in that report, and perhaps in your other reports in 18 Gautier -- for properties in Gautier, you estimated, 19 you know, wind speeds of 125 to 135 miles per hour, 20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. When you prepared those reports for 23 the properties in Gautier, were you even aware of 24 the Texas Tech report?</p> <p>25 A. I gave it no credibility if I was aware of</p>	<p>1 A through G, right?</p> <p>2 A. Absolutely.</p> <p>3 Q. Okay. So if the meteorological 4 conclusions in A through G aren't accurate, that 5 would render the remaining conclusions, at least H 6 through J, inaccurate, right?</p> <p>7 A. That's obvious.</p> <p>8 Q. Okay. And then conclusion K is just your 9 estimate of the current replacement cost which we'll 10 address briefly at the end of the deposition.</p> <p>11 Opinion J, which is on Politz-333, you state, "Based 12 upon my forensic engineering study, I conclude that 13 the root cause of all of the structural destruction 14 of the Politz house and attached garage was the 15 early winds of Hurricane Katrina." Did I read that 16 correctly?</p> <p>17 A. You did.</p> <p>18 Q. That fairly summarizes your ultimate 19 conclusion in this case --</p> <p>20 A. It does.</p> <p>21 Q. -- right, as to the cause and origin of 22 the damage to the --</p> <p>23 A. Structural damage.</p> <p>24 Q. Structural?</p> <p>25 A. As I mentioned, it may have been things</p>
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<p>1 it.</p> <p>2 Q. My question was do you -- do you recall 3 whether you had actually read it at the time you 4 prepared this report?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay. I'm not surprised it doesn't change 7 your opinion, but I was just curious if you were 8 aware of it. Let's turn to Politz-332. And this is 9 a summary of conclusions section in your report, 10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. You would agree with me that you have them 13 lettered here, conclusions A through G are all 14 meteorological opinions, right?</p> <p>15 A. Based on my research, yes.</p> <p>16 Q. Right. This is just you're relying on 17 meteorologists that you believe are credible?</p> <p>18 A. Yeah, a multitude of them, yes.</p> <p>19 Q. Uh-huh. Okay. So the remaining 20 conclusions starting with conclusions H through K 21 are not meteorological, they are actual engineering 22 conclusions, right?</p> <p>23 A. Yes, they are.</p> <p>24 Q. Okay. They depend and rely on the 25 meteorological data that you discuss in conclusions</p>	<p>1 there on -- in the house, whatever was left that the 2 waters hadn't destroyed. All I can address is the 3 structural capacities of this --</p> <p>4 Q. And you're talking about the inside, 5 perhaps, contents?</p> <p>6 A. Yeah, contents, whatever was in the inside 7 of the house.</p> <p>8 Q. Okay. You're not rendering any opinion 9 about the contents that were destroyed by wind 10 versus water, correct?</p> <p>11 A. I don't know. I simply am not offering no 12 opinion other than knowing that winds blew through 13 the house for three hours or in it, through it, 14 taking it away. I don't know what was left there 15 exactly. Probably the heaviest things were left.</p> <p>16 Q. And I'm not -- I mean, you don't address 17 it in your report. I just want to make sure, you 18 know, you've never -- you haven't gone through a 19 contents list --</p> <p>20 A. No.</p> <p>21 Q. -- of the Politz's possessions --</p> <p>22 A. No.</p> <p>23 Q. -- of wind, water, wind, water?</p> <p>24 A. I had nothing to do with that.</p> <p>25 Q. And you don't intend to do that?</p>

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<p>1 A. No.</p> <p>2 Q. That's not part of your expert testimony</p> <p>3 that you will be giving in this case, right?</p> <p>4 A. No, I do not --</p> <p>5 Q. Okay.</p> <p>6 A. -- intend to do contents.</p> <p>7 Q. And if you turn to Politz-324.</p> <p>8 A. All right.</p> <p>9 Q. Okay. And on the first full paragraph on</p> <p>10 Politz-324, you write, "It would be tempting to try</p> <p>11 and draw a dividing line at the so-called high water</p> <p>12 line and attribute all damages from this line and</p> <p>13 below to flood waters, and all damages above the</p> <p>14 line to wind storm. However, this simplistic</p> <p>15 explanation will not answer the question of which</p> <p>16 set caused the other damage or caused the mechanisms</p> <p>17 of structural failures to occur." Did I read all</p> <p>18 that correctly?</p> <p>19 A. You did.</p> <p>20 Q. Okay. And that's your opinion that you</p> <p>21 can't divide between wind and water damage in this</p> <p>22 case, right?</p> <p>23 A. No, you have to know the sequence of when</p> <p>24 it occurred, when winds occurred and were they</p> <p>25 strong enough to destroy before the water got there.</p>	<p>1 to the arrival of water, correct?</p> <p>2 A. That's correct --</p> <p>3 Q. Correct.</p> <p>4 A. -- because of the sequence I proved.</p> <p>5 Q. I'm going to show you --</p> <p>6 MR. GILMORE: Can we go off the record for</p> <p>7 a minute?</p> <p>8 VIDEOGRAPHER: Off the record at 2:28.</p> <p>9 (Off the record.)</p> <p>10 VIDEOGRAPHER: On the record at 2:29.</p> <p>11 Q. (By Mr. Gilmore) You have a</p> <p>12 reconstruction cost estimate in your report, right?</p> <p>13 A. Yes, I believe it's Appendix G. Hold on</p> <p>14 one second.</p> <p>15 Q. And I believe that starts at 46 -- 461 of</p> <p>16 your report.</p> <p>17 A. Yes, sir.</p> <p>18 Q. Politz-460, 461?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. In previous reports, you prepared a</p> <p>21 cost estimate based on the RS Means data alone,</p> <p>22 right?</p> <p>23 A. Prior to late summer, early fall of '07,</p> <p>24 yes.</p> <p>25 Q. And you no longer use that data alone,</p>
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<p>1 Q. And in fact, trying to divide would be</p> <p>2 irrelevant for your expert analysis in this case,</p> <p>3 right, Mr. Biddy?</p> <p>4 A. No, that would be just a -- some sort of a</p> <p>5 wild guess.</p> <p>6 Q. Uh-huh. Okay. So you would have made no</p> <p>7 effort and will make no effort to divide between</p> <p>8 damage between wind and water in this case, correct?</p> <p>9 A. I didn't say that. I said all structural</p> <p>10 damage was attributable to wind. The destruction of</p> <p>11 the building was attributable to wind. Whatever was</p> <p>12 left there perhaps was destroyed by water. I don't</p> <p>13 know what was left there.</p> <p>14 Q. Well, I think you've answered -- my -- my</p> <p>15 question was a little different. Forgive me if it</p> <p>16 was vague. I was referring to your statement that</p> <p>17 it would be tempting to draw -- to try and draw a</p> <p>18 dividing line at the so-called high water line and</p> <p>19 attribute wind and water damage accordingly. You</p> <p>20 haven't done that, and you're not going to try to do</p> <p>21 that in this case?</p> <p>22 A. No, I will not.</p> <p>23 Q. And the reason why you're not going to try</p> <p>24 and do that in this case is because you think the</p> <p>25 structural damage was completely done by wind prior</p>	<p>1 right?</p> <p>2 A. That's correct. Judge Ozerden, who I</p> <p>3 don't agree with, ruled that that was not accurate</p> <p>4 enough to present to a jury, simply a preliminary</p> <p>5 estimate as all estimates are, unless the</p> <p>6 contractor's actually giving you a bid for the job,</p> <p>7 but anyway, since he ruled that, I went another</p> <p>8 direction and made an interview with the local</p> <p>9 homebuilders and determined what they were charging</p> <p>10 now, and I use those numbers now.</p> <p>11 Q. Now, you could actually ask a local</p> <p>12 contractor to make a bid to reconstruct the Politz</p> <p>13 residence, right?</p> <p>14 A. You could. You would have to do a</p> <p>15 detailed take off of, you know, every piece of</p> <p>16 material and his labor and apply that.</p> <p>17 Q. That would be more accurate than using --</p> <p>18 would that be more accurate than using the RS Means</p> <p>19 approach, right?</p> <p>20 A. More accurate than using RS Means, yes.</p> <p>21 Q. Okay. And the approach you've used in</p> <p>22 your new methodology, you use a base cost per square</p> <p>23 foot, correct?</p> <p>24 A. That is correct.</p> <p>25 Q. And that base cost is just -- it's a</p>

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<p>1 number that you determined after speaking with --</p> <p>2 when you refer to local contractors, you identify</p> <p>3 one, right, Carl Hamilton?</p> <p>4 A. Well, I have another one. Both of them</p> <p>5 which gave me letters, Mr. Carl Hamilton of Hamilton</p> <p>6 Builders and one from Plumb Builders.</p> <p>7 Q. Is that referenced in this report?</p> <p>8 A. I don't think the Plumb -- I don't think I</p> <p>9 made reference to Plumb, but I have those letters if</p> <p>10 you'd like them.</p> <p>11 Q. And in fact, I would like them. Are</p> <p>12 they -- since they're not referenced in your report,</p> <p>13 is it correct to assume that in your report and in</p> <p>14 your methodology, you were relying on the Carl</p> <p>15 Hamilton information? You would have disclosed the</p> <p>16 Plumb letter in your report if it was something that</p> <p>17 you relied upon, right?</p> <p>18 A. Plumb -- Carl Hamilton was more recent.</p> <p>19 Plumb was a year or more before I talked with Carl</p> <p>20 Hamilton. Hamilton gave me -- I had two or three</p> <p>21 telephone conversations with him in which he cited</p> <p>22 numbers of houses that he had built pre-Katrina,</p> <p>23 partially finished before Katrina and then finished</p> <p>24 after Katrina, and then after Katrina occurred, and</p> <p>25 gave me the square foot prices for average, good</p>	<p>1 A. All right. I will do that.</p> <p>2 Q. And I would ask that those be produced to</p> <p>3 Nationwide. Of the two -- other than Plumb Builders</p> <p>4 and Carl Hamilton, can you name any other</p> <p>5 contractors that you've had similar kinds of</p> <p>6 discussions regarding reconstruction costs on the</p> <p>7 Mississippi Gulf Coast?</p> <p>8 A. No, not to the extent that I went to Plumb</p> <p>9 Builders and with Carl Hamilton for whole houses. I</p> <p>10 have discussed materials with contractors, different</p> <p>11 contractors over a period of three years. They tell</p> <p>12 me -- at first, they said roofing was going up 10</p> <p>13 percent every Monday, for instance. I remember that</p> <p>14 quote, and I've talked to numbers of homeowners who</p> <p>15 could not get the contractors to start because there</p> <p>16 was just no labor to be had in this area at least</p> <p>17 the first year or two.</p> <p>18 Q. Of the two external sources that you've</p> <p>19 had substantive information from, you think that</p> <p>20 Hamilton is probably more accurate than the Plumb</p> <p>21 information because it's more current?</p> <p>22 A. Yes, it's more current, and it would take</p> <p>23 into account the fact that there is more labor now.</p> <p>24 He told me that one of the biggest reasons that the</p> <p>25 costs were more now than before Katrina was because</p>
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<p>1 quality and high quality homes, and he described to</p> <p>2 me what each one meant as far as high quality and</p> <p>3 good quality and very -- you know, very -- you might</p> <p>4 call them deluxe homes.</p> <p>5 Q. I've seen a few of your reports based on</p> <p>6 using this methodology. The 175 per square foot</p> <p>7 number, that's the mid tier number?</p> <p>8 A. No, no, that would be the -- according to</p> <p>9 Mr. Hamilton, that would be the deluxe homes.</p> <p>10 Q. Oh, that's the deluxe home. I thought</p> <p>11 there was a 200 square foot figure I had seen in</p> <p>12 some of your reports.</p> <p>13 A. Well, 200 per square foot was --</p> <p>14 Q. 200 per square foot, I apologize.</p> <p>15 A. Plumb Builders quoted 150 to 200 a square</p> <p>16 foot. The reason I didn't cite this is, like I just</p> <p>17 said, it's a year older than the Hamilton Builders,</p> <p>18 and Hamilton gave me a letter stating all of this,</p> <p>19 so I will give you those -- a copy of those letters.</p> <p>20 Q. Yeah, I would ask you if you could provide</p> <p>21 copies of any letters and correspondence you have</p> <p>22 with Mr. Hamilton and Plumb Builders --</p> <p>23 A. Okay.</p> <p>24 Q. -- regarding your reconstruction cost</p> <p>25 estimates for properties during Hurricane Katrina.</p>	<p>1 of labor. The carpentry type labor went from 10 to</p> <p>2 \$12 a square -- an hour for that kind of labor up to</p> <p>3 20 and \$22 per hour. It almost doubled, and that</p> <p>4 fits with what I saw in this area, and I don't know</p> <p>5 if it's still true or not, but even convenience</p> <p>6 stores had signs up of wanted -- help wanted, \$8 an</p> <p>7 hour and a \$500 sign-on bonus just for the clerks,</p> <p>8 so the labor was next to nonexistent because there</p> <p>9 was no place to stay. People were having to drive</p> <p>10 in from places north of here.</p> <p>11 Q. Okay. Let me just hand you Defense</p> <p>12 Exhibit 48.</p> <p>13 (Exhibit 48 marked for identification.)</p> <p>14 Q. (By Mr. Gilmore) Have you seen this kind</p> <p>15 of document before?</p> <p>16 A. I'm not sure if I have or not. I may</p> <p>17 have. It's some type of a grant for -- to help</p> <p>18 people rebuild, I guess.</p> <p>19 Q. Uh-huh. And this is -- I'll represent to</p> <p>20 you this is a document produced by the Mississippi</p> <p>21 Development Authority in this case in response to a</p> <p>22 subpoena regarding the grant application of Mr. and</p> <p>23 Mrs. Politz for damage to their property.</p> <p>24 A. Is that a question?</p> <p>25 Q. The -- you'll see due to the -- at the</p>

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<p>1 bottom, there's a determination the house was 100 2 percent damaged by high winds and flood water. I 3 guess you would agree with respect to the high 4 winds, right, Mr. Biddy?</p> <p>5 A. Yes.</p> <p>6 Q. And disagree that the flood water caused 7 any structural damage to the property. That would 8 be --</p> <p>9 A. Structural damage, that's correct, I would 10 disagree on that.</p> <p>11 Q. Uh-huh. And are you familiar with the 12 fact that as a requirement to receive a grant from 13 the MDA, you have to -- your property has to have 14 suffered flood damage, correct?</p> <p>15 A. Well, I think obviously the property did 16 suffer a lot of flood damage after the fact, after 17 the structural part of it was destroyed.</p> <p>18 Q. And in terms of -- just so I'm clear, your 19 view, insurable -- the insurable loss was caused 20 by -- under the homeowners policy was caused by 21 winds --</p> <p>22 A. Well, I don't know --</p> <p>23 Q. -- not flood?</p> <p>24 A. I don't know what was insured and what 25 wasn't. I have no -- I've never seen a policy. I</p>	<p>1 Q. Well, Mr. Biddy, when -- so when you say 2 that the house blew away, as you've said in your 3 report, and we can go through each instance where 4 you say it.</p> <p>5 A. Of course.</p> <p>6 Q. But what -- you don't mean -- you don't 7 actually mean that it blew away, do you?</p> <p>8 A. Yes, I do.</p> <p>9 Q. Well, there was things -- you just said 10 that there were things left of it. Now, I mean, 11 maybe -- so I'm not trying to be glib. I just want 12 to understand, you know, what extent do you think it 13 was left? Floor coverings, when we're talking about 14 floor coverings, you mean like wood floors?</p> <p>15 A. Carpets --</p> <p>16 Q. Carpets --</p> <p>17 A. -- wood flooring, the tile or linoleum, 18 whatever was on the floors was destroyed by the 19 later arriving waters. The winds didn't pick up 20 carpet off the floor in most instances and blow it 21 away. You know, I don't know what part of the 22 electrical wiring in the walls might have been left 23 there that the waters then came in and destroyed. 24 Who knows? Obviously, there was some water damage. 25 I can't tell you how much. I know the structure</p>
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<p>1 don't know if contents was insured, appliances, 2 built-in stuff. I don't -- I don't know how to 3 answer your question.</p> <p>4 Q. That's fine. Let me put it this way: 5 It's your view that the structural damage was caused 6 by winds prior to arrival of the storm surge?</p> <p>7 A. Certainly, absolutely.</p> <p>8 Q. And so if someone is applying for a grant 9 that requires the property to have suffered flood 10 damage to its structure in order to get money to 11 rebuild that structure, you would think that that 12 requirement would be met in this case; is that your 13 view?</p> <p>14 A. I've just seen this document. I don't 15 know. You know, obviously some parts of the house 16 were -- were damaged or destroyed by water. For 17 instance, floor coverings. All of the floor 18 coverings were obviously destroyed by the later 19 arriving waters. Built-in appliances, there may 20 have been bookcases left. There's no way for me to 21 tell. I'm not clairvoyant. I know the structure 22 failed due to the winds --</p> <p>23 Q. Well --</p> <p>24 A. -- three hours ahead of the water getting 25 there.</p>	<p>1 failed due to wind. It blew away due to wind. Now, 2 what was left on the slab, remnants of this, that 3 and the other, plus some furnishings and so on, you 4 know, I don't know.</p> <p>5 Q. So I'm just asking -- I just want to make 6 sure that I've asked you. You understand why I'm 7 asking you these questions because I want to make 8 sure that when we get to trial that you -- I know 9 what to expect. I've had a fair opportunity to 10 understand your opinion as to the extent of the 11 damage, what damage was caused by wind versus what 12 damage, if any, was caused by water, and I'm not 13 asking you to be clairvoyant, but if you don't know, 14 then I want you to tell me that you don't know.</p> <p>15 A. The one thing I see about this document 16 that you handed me is the bottom line, the total 17 cost to reconstruct, \$151,000, that would be less 18 than \$100 a square foot, which is just totally 19 unreasonable with the market that's here now based 20 on my survey of the builders.</p> <p>21 Q. And that's based on your -- the 22 methodology that you use in the report, your 23 estimate?</p> <p>24 A. That's correct. That would have been -- 25 even under RS Means standards, this would have been</p>

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<p>1 too low.</p> <p>2 Q. Right. Under -- under either of the</p> <p>3 methodologies that you've tried to use, you disagree</p> <p>4 with the estimate. I understand that. Let me show</p> <p>5 you 117.</p> <p>6 (Exhibit 117 marked for identification.)</p> <p>7 Q. (By Mr. Gilmore) I guess -- I guess I</p> <p>8 just have one question, I mean, about the MDA grant</p> <p>9 application. If you have to say the structure of my</p> <p>10 house was destroyed by flood in order to get money</p> <p>11 to rebuild the structure of your house, do you think</p> <p>12 it's wrong for Mr. and Mrs. Politz to make this</p> <p>13 application for the MDA grant?</p> <p>14 A. That's what a layman calls his house. It</p> <p>15 probably includes everything, includes floor</p> <p>16 coverings, furnishings, his built-ins. I will pass</p> <p>17 no moral judgments on what they did. I have no</p> <p>18 earthly idea whether they understood it just meant</p> <p>19 the structural portion of the house.</p> <p>20 Q. Sure. Well, if you were the owners of</p> <p>21 this property, would you have gone to the government</p> <p>22 and said my house was destroyed by flood damage, and</p> <p>23 I should -- and I'm asking for this money?</p> <p>24 A. Well, I would have taken them an</p> <p>25 engineering report and, hopefully, I would have</p>	<p>1 A. No, indeed.</p> <p>2 Q. Okay. Turn to page 13 of the report and</p> <p>3 you have to flip a few pages. It's the page numbers</p> <p>4 at the bottom.</p> <p>5 A. I see it.</p> <p>6 Q. Again, I'm sure you've been asked this</p> <p>7 question before, and I think you would agree with</p> <p>8 this statement, the first statement on that page,</p> <p>9 "Even with its high speeds, wind is less destructive</p> <p>10 than storm surge, wave action and flooding directly</p> <p>11 related to the hurricane which can cause more</p> <p>12 property damage and more loss of life."</p> <p>13 A. If the storm surge comes first or</p> <p>14 concurrent even with the -- the wind speeds that</p> <p>15 were destroyed, yes, obviously, the wind -- the</p> <p>16 water is much heavier than wind, and it doesn't take</p> <p>17 but about three feet, 3.75 feet to start caving in a</p> <p>18 two by four stud wall.</p> <p>19 Q. Okay. If you turn to the next page, page</p> <p>20 14, "The storm surge and wave action are as deadly</p> <p>21 as they are because of the intense power of moving</p> <p>22 the water." Do you agree with that statement?</p> <p>23 A. If it's -- again, if it's striking a</p> <p>24 closed structure, yes, and if -- if you have the</p> <p>25 type of waves that would produce that kind of force.</p>
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<p>1 taken the evidence that I saw on the property piece</p> <p>2 by piece of destroyed stuff that remained on the</p> <p>3 property that didn't blow away, and I would have</p> <p>4 described it and what the cost of it was and so on,</p> <p>5 and said so much was water damage and so much was</p> <p>6 wind damage. That's the way I would have presented</p> <p>7 it, but I'm an engineer. And, of course, these are</p> <p>8 just laymen. They knew their house was gone and</p> <p>9 nothing was salvageable to speak of.</p> <p>10 Q. I think that you've probably seen this</p> <p>11 document before. I'm going to ask you a few</p> <p>12 questions about it. It's marked as Defense Exhibit</p> <p>13 117. This is a document entitled "Federal Emergency</p> <p>14 Management Agency, Is it wind or is it water?"</p> <p>15 You're familiar with this document, right?</p> <p>16 A. I have seen it, yes.</p> <p>17 Q. Do you consider it an authoritative source</p> <p>18 of information regarding -- well, to help in</p> <p>19 determining whether a property during Hurricane</p> <p>20 Katrina was damaged by wind versus water?</p> <p>21 A. The answer -- the short answer is no.</p> <p>22 Q. No, you do not?</p> <p>23 A. No.</p> <p>24 Q. It's not something that you would rely on</p> <p>25 in reaching any of your opinions?</p>	<p>1 You see what that ignores is that waves dissipate as</p> <p>2 they go inland at the shoreline unobstructed, and if</p> <p>3 you have those waves, you get a tremen -- they're</p> <p>4 moving seven to 10 miles an hour and has tremendous</p> <p>5 force, of course.</p> <p>6 Q. Okay. You believe that the waves and the</p> <p>7 storm surge during Hurricane Katrina dissipated</p> <p>8 significantly as they came inland?</p> <p>9 A. Significantly, yes.</p> <p>10 Q. And so a property that was 190 yards</p> <p>11 inland like the Politz property, you think -- 190</p> <p>12 yards inland, you think the storm surge waves would</p> <p>13 have dissipated significantly?</p> <p>14 A. I'm certain they did.</p> <p>15 Q. And you're certain. And why are you</p> <p>16 certain?</p> <p>17 A. Well, I have viewed the Beau Rivage video.</p> <p>18 Have you?</p> <p>19 Q. I have.</p> <p>20 A. You can see as the -- the surge comes in,</p> <p>21 it comes in, you can see some swells out in the Gulf</p> <p>22 a hundred yards. As it comes to the shore line,</p> <p>23 those have dissipated into just a washing up to --</p> <p>24 to a height and backing off, and it just keeps</p> <p>25 getting a little higher and a little higher until it</p>

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<p>1 finally gets to Highway 90. Finally gone on over 2 Highway 90 into under I-110 and into downtown Biloxi 3 in a gradual manner like a high tide comes in. And 4 this is because of those northeast and east winds 5 that kept the wall -- any wall water down. 6 Q. So Mr. -- 7 A. I'm sorry. 8 Q. I'm sorry. I didn't mean to interrupt. 9 A. Let me explain this. A tsunami, which 10 people fantasize about in hurricanes, is caused by a 11 earthquake at sea, which -- which creates waves that 12 propagate out in the center. A hurricane is not 13 like that. A hurricane is a wind driven event. It 14 depends on wind. The wind blowing in the opposite 15 direction from the eye, from the center, usually the 16 counterclockwise motion of the storm, it's going to 17 hold the water back until such time as the -- the 18 winds wrap around from the southeast or the south, 19 and then that's when you get the high water. That's 20 the reason it's delayed. That's always the case. 21 There's some delay, and I think all authorities 22 recognize that. I mean, these -- 23 Q. And those authorities would be 24 meteorologists, right? Everything you just said are 25 meteorological opinions, right, Mr. Biddy? I</p>	<p>1 storm tide, but it wasn't some wall of water like a 2 tsunami. What's interesting about that video, too, 3 is this -- this was a storm chaser who was there 4 specifically to make that video. He kept coming 5 back at the beginning and at the middle and at the 6 end to a brown pelican and then some more pelicans 7 sitting off to the side there in the water. They 8 stayed there the whole time, weren't -- didn't fly 9 off, weren't disturbed at all. Had there been any 10 high crashing waves, they wouldn't have set there. 11 Q. And I know the pelican you're talking 12 about, and it's true the pelican was sitting in 13 water that was sheltered by the Beau Rivage, 14 correct? 15 A. There was not only that one particular 16 pelican that was 50 yards or so from the -- from the 17 Beau Rivage, but there were three others out even 18 further. They were still there. 19 Q. And have you seen any other videotapes 20 taken from residents who rode out the storm and 21 videotaped what the storm surge looked like to 22 corroborate your view that there were no serious 23 waves during the storm surge if you go inland? 24 A. I have sworn affidavits from a number of 25 them, yes.</p>
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<p>1 understand they're your opinions -- 2 A. That's true. That's true. 3 Q. -- but it's meteorological opinions it's 4 fair say? 5 A. Of course. 6 Q. And if I play the -- the -- the videotape 7 that you're talking about, you know, that shows the 8 Beau Rivage -- 9 A. Uh-huh (affirmative response). 10 Q. -- are you telling the jury here that if 11 we play that tape at trial that they would not see 12 waves not just far out in the Gulf, but waves 13 inundating properties that were damaged by storm 14 surge; is that your testimony? 15 A. I'm saying there's no wall of water and no 16 high waves at all when it gets to shoreline. 17 Q. That's your testimony that's what the Beau 18 Rivage video in its entirety shows? I know the part 19 you're talking about, but in the entirety of the 20 video, is it your testimony that it shows that there 21 were no high waves as part of the storm surge 22 inundating the land and the property that was 23 destroyed during Katrina? 24 A. It's my testimony that it shows a gradual 25 coming in of a storm. Now, of course, it was a</p>	<p>1 Q. Okay. Have you ever seen videotape taken 2 by Tommy Luke in the Eagle Point neighborhood? 3 A. No. 4 Q. And if you saw the video -- if you saw a 5 videotape that showed two to four foot white caps on 6 storm surge, that might cause you to change your 7 opinion, correct? 8 A. If it was at the shoreline, and if it was 9 at this location, yes, I would say, yeah, there was 10 some waves crashing in the shoreline. 11 Q. And if it was -- 12 A. We got waves -- and if you remember from 13 the Beau Rivage video, they were breaking a hundred 14 yards out. The white caps and breaking of the waves 15 were way out in the water and then it just came on 16 in in swells. 17 Q. And if this videotape -- you know, we can 18 show it at trial if need be, but if the videotape -- 19 well, I don't think we need to show the videotape 20 because the videotape showed a property that was 21 1000 yards inland sitting on a canal way off the 22 Gulf that showed two to four foot waves with white 23 caps high enough to make a former FBI agent think 24 that his house was going to be destroyed by a storm 25 surge, that might cause you to change your opinions</p>

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<p>1 as to the storm surge waves, right, Mr. Biddy?</p> <p>2 A. That's his opinion. You're asking me to</p> <p>3 speculate on something that I don't know nothing</p> <p>4 about.</p> <p>5 Q. I withdraw the question. That's fine.</p> <p>6 The probably not fair since you haven't seen that</p> <p>7 videotape. I represent to you, you would change</p> <p>8 your view if you had. Mr. Biddy, is there a -- is</p> <p>9 there anything significant about your conclusions or</p> <p>10 your testimony that I haven't asked you questions</p> <p>11 about during this deposition?</p> <p>12 A. I can't think of anything. I think we've</p> <p>13 covered the waterfront.</p> <p>14 MR. GILMORE: Let's go off the record. I</p> <p>15 want to just take a few minutes and see if I have</p> <p>16 anything else.</p> <p>17 VIDEOGRAPHER: Off the record at 2:55.</p> <p>18 (Off the record.)</p> <p>19 VIDEOGRAPHER: On the record at 3:07.</p> <p>20 Q. (By Mr. Gilmore) Mr. Biddy, I'm going to</p> <p>21 hand you what's been marked as Defense Exhibit 160.</p> <p>22 (Exhibit 160 marked for identification.)</p> <p>23 Q. (By Mr. Gilmore) Or I was going to hand</p> <p>24 you Defense Exhibit 160. Sorry. Let me go off the</p> <p>25 record one second.</p>	<p>1 insurance companies won't admit to that, he said.</p> <p>2 They want you to believe that the storm surge caused</p> <p>3 90 percent of the damage. It didn't. I think</p> <p>4 everyone knows that in a hurricane, the winds come</p> <p>5 first, then the water. Everyone, that is, but</p> <p>6 insurance companies. The winds caused the</p> <p>7 destruction, and they did the destruction before all</p> <p>8 of the water got there." I read all of that</p> <p>9 correctly, right?</p> <p>10 A. True statement.</p> <p>11 Q. And I think you've said things to that</p> <p>12 effect during this deposition today, correct?</p> <p>13 A. I have, yes.</p> <p>14 Q. It's still your view today, right?</p> <p>15 A. It is.</p> <p>16 Q. Now, it's not true that everyone except</p> <p>17 the insurance companies has a contrary view, right?</p> <p>18 I mean, for instance, FEMA has the same view as</p> <p>19 insurance companies, right?</p> <p>20 A. FEMA -- some -- that document you gave me</p> <p>21 that says wind or water does side with the water</p> <p>22 destruction more than wind.</p> <p>23 Q. I know you've seen this fun document here?</p> <p>24 A. Yes, I have.</p> <p>25 Q. This is not the 1989 wind or water</p>
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<p>1 VIDEOGRAPHER: Off the record at 3:08.</p> <p>2 (Off the record.)</p> <p>3 VIDEOGRAPHER: On the record at 3:09.</p> <p>4 Q. (By Mr. Gilmore) As I was saying, Defense</p> <p>5 Exhibit 106, you might have seen this before.</p> <p>6 A. I have, yes.</p> <p>7 Q. For 15 minutes of fame, perhaps. It's an</p> <p>8 article in The Mississippi Press. It's an interview</p> <p>9 of you, right, Mr. Biddy?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 A. Well, no, it was -- I gave a talk to the</p> <p>13 Rotary Club and the --</p> <p>14 Q. Right.</p> <p>15 A. -- reporter was there.</p> <p>16 Q. And on the second page of Defense Exhibit</p> <p>17 160, you say -- well, the report says that the storm</p> <p>18 made its way inland several hours before the storm</p> <p>19 surge and that caused most of the damage that you</p> <p>20 have seen during your tour of the coast, right?</p> <p>21 A. Yes. I don't know which paragraph you're</p> <p>22 reading from, but that's true.</p> <p>23 Q. I'm reading from the very beginning.</p> <p>24 A. Oh, okay.</p> <p>25 Q. And they quote you as saying, "The</p>	<p>1 document. This is actually FEMA's Hurricane Katrina</p> <p>2 and the Gulf Coast Litigation Assessment Team Report</p> <p>3 prepared in July 2006. This is FEMA's authoritative</p> <p>4 report on Hurricane Katrina, correct?</p> <p>5 A. Yes, it is.</p> <p>6 Q. I will hand this to you.</p> <p>7 MR. GILMORE: Counsel, do you want a copy?</p> <p>8 MS. TYNES: No thank you.</p> <p>9 Q. (By Mr. Gilmore) If you turn to page</p> <p>10 1-30.</p> <p>11 A. Would that be early on in the --</p> <p>12 Q. It would be, actually, yeah. It's</p> <p>13 pretty -- pretty early on. It's marked with the</p> <p>14 Bates number Politz-1256. I'm sorry, NWPOL 1256.</p> <p>15 This was produced by Nationwide.</p> <p>16 A. 1256. Page 1-30, okay.</p> <p>17 Q. Uh-huh. This is a section that it</p> <p>18 compares Katrina versus Camille, right?</p> <p>19 A. Yes, it does.</p> <p>20 Q. Okay. And it states, "Hurricane Camille</p> <p>21 1969, the previous 'hurricane of record' for the</p> <p>22 Mississippi Gulf Coast quoted a 25 foot storm surge,</p> <p>23 and its peak strength over the Gulf, 910 millibars</p> <p>24 and 175 miles per hour sustained winds. Katrina</p> <p>25 intensity was comparable to Camille's, but at</p>

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<p>1 landfall, Katrina's measured winds, 127 miles per 2 hour sustained, were lower, and its central 3 pressure, 920 millibars was higher than Camille's 4 estimated landfall measurements of 190 to 210 mile 5 per hour gust speeds and 909 millibar central 6 pressure." Did I read all of that correctly? 7 A. You did and that is a true statement. 8 Q. Okay. All of the things there were true, 9 right? 10 A. Yeah, and you have to remember that 127 11 mile per hour sustained means you have to multiply 12 that by 1.3 to get gusts. 13 Q. The 1.3 is -- that's not a precise ratio, 14 right? 15 A. Most authorities will agree that 1.3 or 16 more is to be used to multiply sustained to get 17 gusts. I don't think I've read any authoritative 18 meteorologist who would go lower than 1.3, 1.25, 19 1.3. 20 Q. Well, I mean, if you had measured a gust 21 with an anemometer, that's the number you use, 22 right? 23 A. Of course. 24 Q. And so the -- and kind of extrapolate 25 generally is the idea that the -- there's that ratio</p>	<p>1 which topped Camille's surge elevations by several 2 feet in most areas." Did I read that correctly? 3 A. You read it correctly. 4 Q. Do you agree that the most overwhelming 5 source of damage was Hurricane Katrina's record 6 breaking storm surge along the Mississippi coast? 7 A. Obviously not. 8 Q. And even without respect to a specific 9 property for which you've prepared a report, you 10 think, generally speaking, that is not a true 11 statement? 12 A. Not a true statement at all. The very 13 opposite is true. 14 Q. Okay. So you would think that the broad 15 swath of destruction along the coast, the 16 overwhelming source of that damage was winds not 17 Katrina's record breaking storm surge? 18 A. That is correct. 19 MR. GILMORE: I tender the witness. 20 MS. TYNES: I don't have anything. 21 VIDEOGRAPHER: Off the record at 3:17. 22 End of deposition. 23 (Time Noted: 3:17 p.m.) 24 25</p>
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<p>1 between the sustained wind, which you apply if you 2 don't have a gust measurement. Is that the idea? 3 A. Well, yes, I think it was substantiated in 4 Hurricane Andrew that it was as much as 1.5, but 5 that's beside the point. 127 sustained is about 6 right at landfall on the Mississippi coast. 7 Q. Okay. And -- and again, that -- the 8 number that you have used, which you call 9 conservative, 135 miles per hour, that's a gust? 10 A. Correct. 11 Q. The sustained winds based on that gust 12 would then be lower, right? They would be -- 13 A. Much lower. 14 Q. -- whatever the ratio is -- 15 A. Yeah. 16 Q. -- that's the ratio? 17 A. Much lower. 18 Q. Okay. Okay. If you turn to 1-31, first 19 paragraph at the top of that page about halfway down 20 the report says, "Although not as powerful as 21 Hurricane Camille according to wind speed and 22 pressure measurements at landfall, Hurricane Katrina 23 was a much larger diameter storm. The most 24 overwhelming source of damage was Katrina's record 25 breaking storm surge along the Mississippi coast,</p>	<p>1 CERTIFICATE OF DEPONENT 2 DEPONENT: TED BIDDY 3 DATE: November 7, 2008 4 CASE STYLE: Politz, et al. vs. Nationwide, et al. 5 ORIGINAL TO: ROBERT GILMORE, Esq. 6 I, the above-named deponent in the 7 deposition taken in the herein styled and numbered 8 cause, certify that I have examined the deposition 9 taken on the date above as to the correctness 10 thereof, and that after reading said pages, I find 11 them to contain a full and true transcript of the 12 testimony as given by me. 13 Subject to those corrections listed below, 14 if any, I find the transcript to be the correct 15 testimony I gave at the aforesaid time and place. 16 Page Line Comments 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____ This the ____ day of _____, 2008. TED BIDDY State of Mississippi County of _____ Subscribed and sworn to before me, this the ____ day of _____, 2008. My Commission Expires: ____</p>

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CERTIFICATE OF COURT REPORTER

I, Kelly Powell, Court Reporter and Notary Public, in and for the State of Mississippi, hereby certify that the foregoing contains a true and correct transcript of the testimony of TED BIDDY, as taken by me in the aforementioned matter at the time and place heretofore stated, as taken by stenotype and later reduced to typewritten form under my supervision by means of computer-aided transcription.

I further certify that under the authority vested in me by the State of Mississippi that the witness was placed under oath by me to truthfully answer all questions in the matter.

I further certify that I am not in the employ of or related to any counsel or party in this matter and have no interest, monetary or otherwise, in the final outcome of this matter.

Witness my signature and seal this the 10th day of November, 2008.

KELLY M. POWELL

My Commission Expires:
March 2011